

CAUSE NO. D-1-GN-24-001018

SAJID MAQSOOD, TRUSTEE OF THE	§	IN THE DISTRICT COURT
SAJID & JOAN M. MAQSOOD REVOCABLE	§	
TRUST, ET. AL.,	§	
	§	
	§	TRAVIS COUNTY, TEXAS
	§	
v.	§	
	§	
PRIDE OF AUSTIN HIGH YIELD	§	
FUND I, LLC, ET. AL.	§	201 ST JUDICIAL DISTRICT
	§	

RECEIVER’S MOTION TO APPROVE DISTRIBUTION PLAN

Gregory S. Milligan, in his capacity as the Court-appointed receiver (“**Receiver**”) for Defendant Pride of Austin High Yield Fund I, LLC (“**POA**” or the “**Fund**”), pursuant to the *Agreed Order Appointing Receiver* dated April 30, 2024 and amended May 6, 2024 (the “**Receivership Order**”), files this *Motion to Approve Distribution Plan* (the “**Motion**” or the “**Plan**”) and would respectfully show the Court as follows:

I. SUMMARY OF PLAN¹

1. This Plan establishes the equitable framework for distributing proceeds from the monetization of receivership assets, consisting primarily of outstanding note payable collections, real estate sales, and net winner litigation recoveries. The Receiver’s Forensic Report, issued April 15, 2025, determined that POA operated as a *Ponzi* scheme from its inception, with distributions paid from invested capital rather than profits, underscoring the need for an equitable distribution plan. The Plan classifies claimants into five priority classes -- Allowed Creditor Claims (Class 1), Investor Claims (Class 2), Potential Claims of the Internal Revenue Service

¹ Capitalized terms not otherwise defined in this section shall have the meaning ascribed to them in the body of the Motion.

(Class 3), Membership Judgment Holders (Class 4), and Insider Claims (Class 5) -- to ensure equitable allocation of limited funds. The Receiver proposes paying Class 1 in full, followed by Class 2 using a rising tide methodology, with Classes 3, 4, and 5 receiving distributions only after higher classes are satisfied.

2. The rising tide methodology, proposed for Class 2 Investor Claims, equalizes the percentage recovery of each investor's principal by crediting pre-receivership withdrawals against their principal investment, ensuring those with the lowest current recovery percentages (*e.g.*, 0%) receive distributions before those who recovered more pre-receivership (*e.g.*, net winners). This method is widely favored by receivers and courts across the country as the most equitable and prioritizes limited funds to investors who lost the most. To avoid inequitable outcomes, the Receiver also seeks to subordinate Class 4 Membership Judgment Holders, being investors with judgments from pre-receivership lawsuits totaling \$5.6 million, to Class 2 Investor Claims. The Membership Judgment Holders' judgments are based on their equity investments in POA, and if allowed as secured claims against the Fund's liquidation proceeds, these judgment claims would be paid in full before any funds are distributed to Class 2 Investor Claims (or even Class 1 Allowed Creditor Claims). For example, several of the Membership Judgment Holders are "net winners", meaning that they have received more cash back, either through distributions, redemptions, or a combination thereof, than was invested into the Fund. In one case, a Membership Judgment Holder has already received back twice the amount of his invested capital and now seeks to obtain further funds as part of the \$5.6 million in stated damages, before any other Investor Claimant or Creditor Claimant receives a single dollar through this receivership process. It would be extraordinarily inequitable for such an investor to be paid the face value of their judgment (which is based on their equity interest that has already been satisfied, under a rising tide methodology, as a result of their

net winnings) before any other Investor Claimants receive any distributions. Doing so would unfairly favor the Membership Judgment Holder while simultaneously materially reducing the ultimate distributions to other Investor Claimants.

3. For the reasons detailed below, the Court should approve this Plan.

II. BACKGROUND

A. THE FUND AND THE EVENTS LEADING TO THE APPOINTMENT OF THE RECEIVER

4. POA is a Texas limited liability company. Its manager is CCG Capital Group, LLC (“**CCG**”). POA has more than 200 members, each of whom have subscribed to purchase membership interests in POA in accordance with the terms and conditions of a Subscription Agreement, POA’s Operating Agreement, and the Private Placement Memorandum dated December 1, 2008. POA raised investor capital for the purpose of making and arranging residential, commercial, and construction loans to the general public, acquiring existing loans, and selling loans, all of which were to be secured by deeds of trust and mortgages on real estate or personal property.

5. Beginning in 2023, POA was hit with an onslaught of investor lawsuits after POA ceased distributions and failed to adequately communicate with investors. At least 36 different lawsuits were filed against POA prior to the appointment of the Receiver in this action. Most of the lawsuits also included claims against CCG as well as its principal Robert Buchanan (“**Buchanan**”).

6. At the recommendation of POA’s counsel, POA retained HMP Advisory Holdings, LLC d/b/a/ Harney Partners on March 1, 2024, for the purposes of analyzing the books, records, and operations of POA. On April 15, 2024, Harney Partners issued its Preliminary Report to investors of POA. The Preliminary Report unearthed significant issues concerning the operations

of POA, including fraud. Shortly after the dissemination of the Report to POA's investors, POA agreed to the appointment of Gregory S. Milligan of Harney Partners as receiver for POA.

B. THE CLAIMS PROCESS

7. On June 17, 2024, the Court entered its *Order Granting Receiver's Motion to Approve (I) Proposed Claims Verification Procedure; and (II) Claims Bar Date* (the "**Claims Order**"). The Claims Order contemplated separate processes for the Fund's investors ("**Investor Claimants**") and creditor claimants ("**Creditor Claimants**" or "**Other Claimants**").

i. INVESTOR CLAIMANTS

8. With respect to Investor Claimants, the Claims Order required the Receiver to send Reconciliation Notices to the Fund's current and former investors (the "**Reconciliation Notices**"), which were required to include: (i) cash invested into the Fund; (ii) cash paid out to the Investor Claimants by the Fund (whether as redemptions or purported distributions); and (iii) the amount of reinvested dividends, if any (the "**Transaction Histories**").

9. On August 2, 2024, the Receiver, through his claims agent Stretto, sent Reconciliation Notices to all known Investor Claimants. The Reconciliation Notices were sent to each Investor Claimant at their last known physical address via regular U.S. mail and at their last known email address. Pursuant to the Claims Order, because the Reconciliation Notices were served on August 2, 2024, the deadline to object to the Reconciliation Notices was August 23, 2024 (the "**Objection Deadline**").

10. On August 5, 2024, the Receiver sent a notification to all Investor Claimants receiving email notices that the Objection Deadline was August 23, 2024. On August 6, 2024, the Receiver filed a Notice Regarding Objections to Reconciliation Notices that stated the Objection Deadline was August 23, 2024, and also sent that notice to all Investor Claimants through the same means as they received the Reconciliation Notices. In addition, also on August 6, 2024, the Notice

Regarding Objections to Reconciliation Notices was also posted to a special investor website established by the Receiver as another way to timely communicate important case information to investors during the pendency of the receivership proceeding².

11. Out of the 373 Reconciliation Notices that were sent to current and former investors, 32 objections were submitted to the Receiver. Pursuant to the Claims Order, for any Investor Claimant that did not file an objection to the Reconciliation Notice they received, the “Reconciliation Notice shall be the final, binding, determination as to the Transaction History for such Investor Claimant.” Claims Order, ¶ 4(b). The Receiver resolved all 32 objections received either by stipulation or through such Investor Claimant agreeing to withdrawal their objections. As a result, the determination of all of the Investors’ transactions with the Fund are resolved and final.

ii. CREDITOR CLAIMANTS

a. THE PROCESS

12. The Claims Order also contemplated an “***Other Claims***” process, which addressed claims that were not Investor Claims. Pursuant to the Claims Order, the Receiver was required to notify Other Claimants of the claims process and bar dates by transmitting a Claims Package, which included a *Notice of Claims Process and Claims Bar Dates* (the “***Claims Notice***”), the Claims Order, and a Claim Form, to all known Other Claimants with actual or potential claims. Claims Order, ¶ 4(c). On June 24, 2024, the Receiver, through the Claims Agent, served the Claims Notice on all Other Claimants and posted a copy of the Claims Notice to the Receivership Website.

13. The claims bar date was October 15, 2024 (the “***Bar Date***”). On June 27, 2024, the Receiver posted a *Notice of Claims Bar Date* to the Receivership Website. Pursuant to the Claims

² www.PrideofAustinReceivership.com (“*Receivership Website*”)

Order, any Other Claimant’s “failure to timely file a claim shall be forever barred, estopped, and enjoined from asserting such Claim against the Receivership Estate or the Receiver and shall not be treated as a Claimant with respect to such Other Claim for the purposes of any distributions from the Receivership Estate.” *Id.* at ¶ 5(d).

b. FILED CLAIMS AND THE REPORT

14. After the Bar Date passed, the Receiver was required to evaluate all Other Claims that were filed and then file with the Court a “report outlining the Receiver’s recommendation as to the allowable amount and priority of each Other Claim” (the “***Other Claims Report***”). *Id.* at ¶ 7(a). On January 20, 2025, the Other Claims Report was posted to the Receivership Website.

15. Thirty-seven (37) Other Claims were filed on or before the Bar Date in the total amount of \$10,069,184.72. Consistent with the Claims Order, the Receiver filed the Other Claims Report and detailed the allowability, amount, and priority of the Other Claims.

16. The Other Claims Report is incorporated herein by reference. The Other Claims Report detailed the following categories of claims that were filed:

Class of Claims	Aggregate Amount of Filed Claims in Class	Receiver’s Recommendation for Amount of Allowed Claims in Class
Secured Tax Claim of Van Zandt County, Texas	\$93,959.99	\$0.00 ³
General Trade Claims	\$260,466.47	\$207,173.88
Investor Claims filed as Other Claims	\$4,100,470.07	\$93,724.97
Judgment Holders	\$5,614,288.19	\$179,302.08
	Total: \$10,069,184.72	Total: \$429,979.96

³ A claim was filed by the Van Zandt Appraisal District for ad valorem property taxes secured by a tax lien arising under Section 32.01 and 32.05 of the Texas Property Tax Code in the amount of \$93,959.99. This claim was secured by certain property located at 17389 I-20 S. Access Road, Canton, Texas 75103 (the “***Canton Property***”). The Receiver sold the Canton Property pursuant to the *Order Granting Receiver’s Motion to Approve the Sale of Certain Real Property and Related Improvements in Canton, Texas* (the “***Canton Sale Order***”). Consistent with the Canton Sale Order, the property taxes due and owing to the Van Zandt Appraisal District were paid at the closing of the sale of the Canton Property. Accordingly, this claim is moot, and no further distributions to Van Zandt Appraisal District will be made.

17. In short, the Receiver proposed to treat \$429,979.96⁴ of the \$10,069,184.72 of filed Other Claims as allowed Other Claims (the “*Allowed Creditor Claims*”). Under the Claims Order, any Other Claimant that disagreed with the Receiver’s proposal was required to file an objection within 14 days of the filing of the Other Claims Report. Claims Order, ¶ 7(a). If “no objections or responses are timely filed with respect to the Other Claims Report, the Other Claims Report shall be the final, binding determination on each Other Claim.” No objections to the Other Claims Report were filed, and therefore the Receiver’s recommendations in the Other Claims Report are final and binding⁵.

C. THE RECEIVER’S FORENSIC REPORT

18. On April 15, 2025, the Receiver, through his financial advisors at Harney Partners, prepared a forensic report (the “*Forensic Report*”). A copy of the Forensic Report is attached as Exhibit A⁶. The Forensic Report identifies that the Fund operated as a *Ponzi* scheme since its inception, with distributions paid from invested capital rather than profits. Exhibit A, p. 5 (“Ponzi scheme started from the very beginning of the [Fund] – distributions were declared and paid from purported profits that were not realized yet and so the distributed money could only have come from invested capital.”). The findings detail how POA’s distributions, misrepresented as profits,

⁴ The Receiver will be amending the Other Claims Report to include an additional \$50,220.97 of pre-receivership attorneys’ fees to certain investors that, in good faith, submitted their claims after the Bar Date, which will increase the Allowed Creditor Claims to \$480,200.93.

⁵ The Receiver and the Tolia 2013 Revocable Trust, Anish Tolia IRA, John and Judy Arizpe, Richard and Lorena Gardner, Patricia Lloyd Jones, individually and as the Independent Executor of the Estate of James L. Lloyd, deceased, and on behalf of the James L. Lloyd IRA and James L. Lloyd Roth IRA, Jeffrey Walton, Eagle Eye Revocable Trust, David O’Connor, Michael O’Connor, and Graham Wootten, who are classified as Judgment Holders, did enter into a Rule 11 Agreement whereby their deadline to object to the Other Claims Report was extended until 21 days’ after the filing of this Plan. Accordingly, those parties may still object to the treatment of their claims in the Other Claims Report, but the allowance and priority of the remaining claims detailed on the Other Claims Report are final and binding.

⁶ The Forensic Report was also posted to the Receivership Website on April 15, 2025.

were funded by new investor capital, and highlight badges of fraud, including self-dealing and misleading financial reporting.

19. The Forensic Report determines that POA operated as a *Ponzi* scheme from its start, as distributions declared as “Net Profits” were paid from invested capital rather than realized profits, starting in June of 2010. *Id.* Unlike legitimate hard money lending fund operations where profits derive from loan interest and fees, POA’s cash flows showed that member distributions were funded by new investments, a hallmark of a *Ponzi* scheme. *Id.* at p. 6. The Forensic Report identifies red flags, such as consistent distributions despite declining loan portfolio performance and a material decrease in accounting activity post-2015, incompatible with reported returns. *Id.* at pp. 9, 42. Additional badges of fraud included misleading investor reports (*e.g.*, overstating Assets Under Management as collateral values), two sets of loan schedules hiding insider loans, and failure to file tax returns (2016-2023) while issuing inflated Schedule K-1s. *Id.* at pp. 39-41.

20. The facts and conclusions of the Forensic Report support the Receiver’s efforts to equitably distribute funds as detailed in this Plan.

D. SOURCES OF FUNDING FOR DISTRIBUTIONS

21. The Receiver will fund distributions to POA’s stakeholders through the monetization of the Fund’s assets, net of the costs to administer the receivership estate.

E. CLASSES OF CLAIMS

22. The Receiver has classified the stakeholders into five classes of claims:

- Class 1: Allowed Creditor Claims: to be paid in the amount of the Allowed Creditor Claims as stated in the Receiver’s Other Claims Report.
- Class 2: Investor Claims: to be paid pursuant to the rising tide methodology after Class 1 is paid in full.
- Class 3: Potential claims by the Internal Revenue Service: to be paid after payment in full of Class 1 and Class 2, related to the Fund’s failure to file tax returns after 2015.

Class 4: Membership Judgment Holders: to be paid *pro rata* after Classes 1-3 are paid in full.

Class 5: Insider Claims: claims of insiders will be subordinated to Classes 1-4.

23. The Receiver proposes that Class 1 Claimants be paid in full. Class 1 Claimants includes those claimants with Allowed Creditor Claims. Class 1 consists of pre-receivership trade creditors as well as the allowed out-of-pocket attorneys' fees claims of investors that asserted their rights prior to the commencement of the Receivership, all as detailed in the Other Claims Report⁷.

24. Class 2 Claimants shall include Investor Claimants. As discussed in more detail below, including an analysis of the calculation of the distributions and comparisons to other methodologies, the Receiver proposes that allowed Class 2 Claimants be paid pursuant to the rising tide methodology. *At this time, the Receiver does not believe that allowed Class 2 Claimants will be paid the full amount of their claim.*

25. As detailed below, the Class 3 Claimant will receive a distribution only if Class 1 and Class 2 Claimants are paid in full (*i.e.*, all Investor Claimants have received 100% of their principal investment in the Fund back⁸). Class 3 will consist solely of any potential claims asserted by the Internal Revenue Service for, including but not limited to, amounts owed due to the Fund's failure to file federal income tax returns since 2015. No such claim has been asserted by the Internal Revenue Service, but the Receiver understands that such a claim may be asserted by the Internal Revenue Service after the Receiver has filed the delinquent tax returns.

⁷ The Receiver's Retained Personnel shall continue to be paid as administrative creditors pursuant to the terms of the Receivership Order and are therefore not classified for Plan purposes.

⁸ As explained herein, the calculation of whether an Investor Claimant has received 100% of their principal investment in the Fund back will be determined on the basis of cash in and cash out of the Fund. For example, if an Investor Claimant invested \$100,000 in the Fund and then took distributions over the life of the investment totaling \$80,000, it would only take \$20,000 of distributions from the Receivership Estate for such (hypothetical) Investor Claimant to have received 100% of their principal investment in the Fund back for the purposes of distributions.

26. Class 4 Claimants shall consist of the Membership Judgment Holders. Class 4 Claimants will be paid only after Class 1 has been paid in full, all Class 2 Claimants have received the full return of their principal investment, and the Class 3 Claimant has been paid in full.

27. Class 5 Claimants shall consist of Insider Investor Claimants. Class 5 Claimants are subordinated to Classes 1-4 and shall not receive a distribution until Classes 1-4 have been satisfied in full.

III. ARGUMENT & AUTHORITIES

A. LEGAL FRAMEWORK

28. “Upon completion of the claims reconciliation process identified herein, the Receiver shall, within a reasonable period of time, file a motion approving the amount and method of distributions to be made to Other Claimants and to Investor Claimants.” Claims Order, ¶ 7(c). Tex. Civ. Prac. & Rem. Code § 64.004 provides that “[u]nless inconsistent with this chapter or other general law, the rules of equity govern all matters relating to the appointment, powers, duties, and liabilities of a receiver and to the powers of a court regarding a receiver.” There is a dearth of state law interpreting the propriety of distribution plans under Texas state receivership law. However, there is an abundance of federal case law contemplating distribution plans and the Court’s discretion for fixing the priority of payments in receiverships, the reasoning of which this Court should adopt. As detailed below, the Receiver proposes a “rising tide” methodology for distributions to Class 2 Investor Claimants, which he submits is the fairest and most equitable methodology for distributing proceeds to Class 2 Investor Claimants. The “rising tide” methodology is widely accepted as the favored distribution method in *Ponzi* scheme receiverships, including in cases in which Mr. Milligan has acted as receiver, and had a “rising tide” methodology approved by a district court and affirmed by the court of appeals. *See CCWB Asset Invs. v. Milligan*, 112 F.4th 171 (4th Cir. 2024).

29. A district court has “broad powers and wide discretion to determine the appropriate relief in an equity receivership.” *SEC v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372-73 (5th Cir. 1982); *see also Milligan*, 112 F.4th at 178 (“the district court’s power to supervise receivership is ‘extremely broad’, and ‘appellate scrutiny is narrow’”). In approving a distribution plan of receivership funds, “the district court, acting as a court of equity, [is] afforded the discretion to determine the most equitable remedy.” *SEC v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 332 (5th Cir. 2001). The Court’s “primary job . . . is to ensure that the proposed plan of distribution is fair and reasonable.” *SEC v. Wealth Mgmt. LLC*, 628 F.3d 323, 332 (7th Cir. 2010) (citing *Official Comm. of Unsecured Creditors of WorldCom, Inc. v. SEC*, 467 F.3d 73, 84 (2d Cir. 2006)). In crafting an equitable plan of distribution, the Court is not bound to follow any particular plan or method of distribution simply because it is “permissible under the circumstances.” *United States v. Durham*, 86 F.3d 70, 73 (5th Cir. 1996). The Court is afforded broad discretion to determine “a logical way to divide the money,” and tailor a distribution plan accordingly. *Forex*, 242 F.3d at 331 (citing *Durham*, 86 F.3d at 73); *see also Wealth Mgmt. LLC*, 628 F.3d at 333 (“[D]istrict courts supervising receiverships have the power to ‘classify claims sensibly.’” (quoting *SEC v. Enter. Tr. Co.*, 559 F.3d 649, 652 (7th Cir. 2009))).

30. The distribution plan should strive to “grant fair relief to as many investors as possible,” *SEC v. Torchia*, 922 F.3d 1307, 1311 (11th Cir. 2019), while doing so “in a logical way,” *SEC v. Pension Fund of Am. L.C.*, 377 F. App’x 957, 962 (11th Cir. 2010) (internal quotation marks omitted); *see also Milligan*, 112 F.4th at 178 (“[t]he goal of a receivership is ‘the fair distribution of the liquidated assets’”). In summary, so long as a distribution plan is fair and reasonable, it should be approved. This is especially true where “funds are limited, [and] hard

choices must be made.” *Official Comm. of Unsecured Creditors of WorldCom, Inc. v. SEC*, 467 F.3d 73, 84 (2d Cir. 2006).

i. SUBORDINATION OF MEMBERSHIP JUDGMENT HOLDERS

31. As part of the onslaught of at least 36 investor lawsuits brought against the Fund, and prior to the appointment of the Receiver, certain investor members in POA filed some of the referenced lawsuits and obtained judgments against POA and other parties (the “**Judgment Holders**”) prior to the entry of the Receivership Order. Certain of those Judgment Holders filed Other Claims. Eight of the Judgment Holders⁹ obtained judgments for damages arising from the purchase of their membership interests in POA. Four of the Judgment Holders¹⁰ obtained judgments related to their claims against POA for access to books and records. All of the Judgment Holders’ judgments contain attorneys’ fees awards¹¹ and some of the Membership Judgment Holders’ judgments contain additional monetary components related to interest and penalties for POA’s failure to comply with court orders prior to the appointment of the Receiver. The total dollar value of the Judgment Holders’ Other Claims is \$5,614,288.19.

32. The issue of the allowance and priority of these claims is of critical importance in this receivership. The Judgment Holders are seeking to be paid in full, as creditors, before Investor Claimants receive any distributions from the Receivership Estate. If that occurs, it will materially impact the recovery that Investor Claimants not holding judgments obtain because it will reduce the distributable proceeds by more than \$5.6 million¹². In order to avoid this inequitable outcome,

⁹ These Judgment Holders are referred to as the “**Membership Judgment Holders**”

¹⁰ These Judgment Holders are referred to as the “**Record Judgment Holders**”

¹¹ As detailed in the Other Claims Report, the Receiver has allowed attorneys’ fees claims that (i) are for the amounts that were filed by the Bar Date; and (ii) are not for any attorneys’ fees incurred after the appointment of the Receiver. Such attorneys’ fees claims will be paid in full in Class 1.

¹² For example, if the Fund were to achieve \$17 million in net distributable proceeds available to creditors and investors (which is within the current realm of reasonableness), the allowance of \$5.6 million as a creditor claim to certain

the Receiver seeks to subordinate the Other Claims (but not the Investor Claims) of the Membership Judgment Holders.

33. District courts supervising receiverships have the power to classify claims and subordinate certain claims to ensure equitable treatment. This authority is similar to the power granted to bankruptcy courts under the Bankruptcy Code, which codifies the doctrine of equitable subordination. *S.E.C. v. Wealth Management LLC*, 628 F.3d 323, 333-34 (7th Cir. 2010). Specifically, 11 U.S.C. § 510(c)(1) allows bankruptcy courts to subordinate claims based on principles of equitable subordination, which aims to prevent unfair advantages among claimants. This principle was applied in the *Wealth Management* case to ensure that redeeming investors did not receive preferential treatment over non-redeeming investors, in an effort to promote fairness in the distribution of assets. *Wealth Management LLC*, 628 F.3d at 333-34.

34. In *S.E.C. v. Wealth Management LLC*, the Seventh Circuit upheld the district court's decision to subordinate the claims of investors who attempted to redeem their equity, treating them the same as non-redeeming equity shareholders. In that case, the court explained:

To implement an effective pro rata distribution, district courts supervising receiverships have the power to “classify claims sensibly.” This power includes the authority to subordinate the claims of certain investors to ensure equal treatment. The Bankruptcy Code codifies the doctrine of equitable subordination and grants bankruptcy courts the power to subordinate certain claims; this includes treating shareholders who redeemed their shares as equity holders rather than unsecured creditors. The goal in both securities-fraud receiverships and liquidation bankruptcy is identical— the fair distribution of the liquidated assets. *Equitable subordination promotes fairness by preventing a redeeming investor from jumping to the head of the line and re-couping 100 percent of his investment by claiming creditor status while similarly situated nonredeeming investors receive substantially less.*

Id. (emphasis added) (internal citations omitted).

investors would decrease the proceeds available to other investors on a dollar-for-dollar basis and reduce the recovery to other investors by approximately 33%.

35. Here, similarly, the Membership Judgment Holders should not receive priority as the result of winning the “race to the courthouse”. Each of the Membership Judgment Holders’ judgments is based on their equity interest in POA. The fact that they were successful in converting their equity interests into judgments shortly before the commencement of the receivership should not allow them to be paid the face amount of their judgments at the expense of the other Investor Claimants.

36. To make matters worse, some of the Membership Judgment Holders are “net winners” meaning they have already received their principal investment in POA back through distributions, redemptions, or a combination thereof. To allow them to receive the face value of their judgments *on top* of being a net winner would be extraordinarily inequitable to the other Investor Claimants. Accordingly, the Receiver requests that the Other Claims of Membership Judgment Holders be subordinated to Class 2 Investor Claims and Class 3 Claims of the Internal Revenue Service. To be clear, each of the Membership Judgment Holders allowed attorneys’ fees claims (as detailed in the Other Claims Report) will be treated in Class 1 and their Investor Claims will be treated in Class 2.

37. By this Plan, the Receiver is not collaterally attacking the Membership Judgment Holders’ judgments. Instead, the Receiver is simply adjusting the priority of payment based upon principles of equity. *See Milligan*, 112 F.4th at 179 (“Of course, an ‘equitable plan is not necessarily a plan that everyone will like’ ... [r]ather, it is a plan that ‘grants fair relief to as many investors as possible’”).

ii. SUBORDINATION OF INSIDER CLAIMS

38. The Receiver finally proposes that a final Class 5 be created that includes insiders of POA who are Investor Claimants. Insiders shall include family members, employees, officers, directors of POA. The Receiver proposes that any individual or entity falling within this category

who is an Investor Claimant be removed from Class 2 and be paid *pro rata* only after Class 1, 2, 3, and 4 Claimants have been paid in full. At this time, the Receiver does not anticipate having sufficient funds to make payments to Class 5.

39. The Receiver believes subordination of Class 5 claimants is fair and reasonable. In equitable receiverships, Courts have subordinated the claims of insiders or outright denied their right to a distribution on the grounds they are not similarly situated to other investors or victims. As equity is equity, it is inequitable to allow employees or others who participated in the *Ponzi* scheme or should have been aware of the fraudulent conduct at issue to recover a distribution. *See S.E.C. v. Byers*, 637 F.Supp.2d 166, 173, 184 (S.D.N.Y. 2009) (collecting cases).

B. METHOD OF DISTRIBUTION

40. “Receivership cases . . . often involve the issue of whether to use a pro rata distribution or a tracing method when determining the appropriate form of relief for defrauded investors’ claims.” *SEC v. HKW Trading LLC*, No. 8:05-CV-1076-T-24-TB, 2009 WL 2499146, at *5 (M.D. Fla. Aug. 14, 2009) (citing *SEC v. Elliott*, 953 F.2d 1560, 1569-70 (11th Cir. 1992)); *see also Byers*, 637 F. Supp. 2d at 176 (recognizing that distribution can also be made based on “level of risk,” timing of investment,” or “some other factor”).

41. Notwithstanding a receiver’s available alternatives for distributions, “case law . . . is quite clear that pro rata distributions are the most fair and most favored in receivership cases.” *Byers*, 637 F. Supp. 2d at 176. Indeed, “[t]racing . . . has been almost universally rejected by courts as inequitable.” *Id.* at 177 (citing *Elliott*, 953 F.2d at 1569); *see also id.* (noting that tracing is “difficult, time-consuming, and expensive”). Indeed, even if it is possible for a receiver to employ tracing, a district court will not abuse its discretion “by disallowing tracing.” *Elliot*, 953 F.2d at 1569 (disallowing tracing because it would allow a defrauded investor to recoup his entire investment, which would elevate his position over that of similarly situated victims and cause an

inequitable result); *see also SEC v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 331 (5th Cir. 2001) (finding that the district court did not abuse its discretion in approving a pro rata distribution plan even though the party's assets were held by a fraudster in a segregated account); *United States v. Durham*, 86 F.3d 70, 73 (5th Cir. 1996) (holding that the district court did not err in approving a pro rata distribution plan despite the fact that the majority of funds were traceable to one victim).

42. Courts have set forth two factors that must be satisfied to approve a pro rata distribution. *First*, investors' funds must have been commingled. *SEC v. Credit Bancorp, Ltd.*, 290 F.3d 80, 88- 89 (2d Cir. 2002). The evidence of commingling does not necessarily have to be "systematic." *Commodity Futures Trading Comm'n v. Eustace*, No. CIV.A. 05-2973, 2008 WL 471574, at *7 (E.D. Pa. Feb. 19, 2008). Here, funds invested into POA were commingled and used to perpetuate the *Ponzi* scheme by using new investments to pay fictitious profits to existing POA members, and were not segregated or traceable.

43. *Second*, the investors must be similarly situated "with respect to their relationship to the defrauders." *Credit Bancorp, Ltd.*, 290 F.3d at 88-89. So, "where a victim seeking preferential treatment cannot materially distinguish his situation from that of other victims, a pro rata distribution is recognized as the most equitable solution." *SEC v. Alleca*, No. 1:12-CV-3261-WSD, 2017 WL 5494434, at *3 (N.D. Ga. Nov. 16, 2017). As such, in pro rata distributions, "investors generally occupy the same legal position as other investors." *SEC v. EB5 Asset Manager, LLC*, No. 15-62323-CIV, 2016 WL 11486857, at *4 (S.D. Fla. Dec. 8, 2016). Here, the Receiver's investigation and resulting Forensic Report found that the investors were similarly situated. As such, *pro rata* distribution is the most equitable approach and the approach the Receiver should use in this case.

C. CALCULATION OF DISTRIBUTION

44. A receiver must also select the “method[] of calculating the pro rata distribution.” *Byers*, 637 F. Supp. 2d at 181. There are three distribution methods that are typically considered in equitable receiverships. These are: (i) rising tide; (ii) net investment or net loss; and (iii) last statement method. The rising tide method is the “most commonly used (and juridically approved) for apportioning receivership assets.” *S.E.C. v. Huber*, 702 F.3d 903, 906 (7th Cir. 2012). The Receiver has concluded, as more fully detailed below, that the rising tide method is the most equitable in this case as it equalizes the lowest percentage return the victims of the *Ponzi* scheme will recover on their investment and it provides the most equitable recovery for the largest number of Investor Claimants. The Receiver therefore requests the Court approve its use here. Below, the Receiver will explain each of the methods of distribution, thus demonstrating that the rising tide method is the most equitable under the circumstances.

i. EXPLANATION OF RISING TIDE METHODOLOGY (RECEIVER’S RECOMMENDED METHOD)

45. The rising tide method uses the distribution process to equalize the percentage return of each Investor Claimant in Class 2 on their loss with the Fund. Under the rising tide method, an investor’s pre-receivership withdrawals are considered a part of the overall distributions received by an investor. As such, the Investor Claimant’s pre-receivership withdrawals for Class 2 Claimants are credited dollar-for-dollar from the principal amount they invested with the Fund. *Huber*, 702 F.3d at 903. This methodology ensures each allowed Investor Claimant receives the same minimum recovery before any allowed Investor Claimant who received pre-receivership withdrawals receives a distribution. As the rising tide recovery percentage reaches allowed Investor Claimants who received pre-receivership withdrawals, those allowed Investor Claimants begin sharing in *pro rata* distributions until the next allowed Investor

Claimant in the rising tide is reached and is added to the *pro rata* distributions. This methodology results in those investors who received the largest pre-receivership withdrawals (on a percentage basis) potentially not receiving any distribution.

ii. EXPLANATION OF NET INVESTMENT METHODOLOGY (NOT RECOMMENDED)

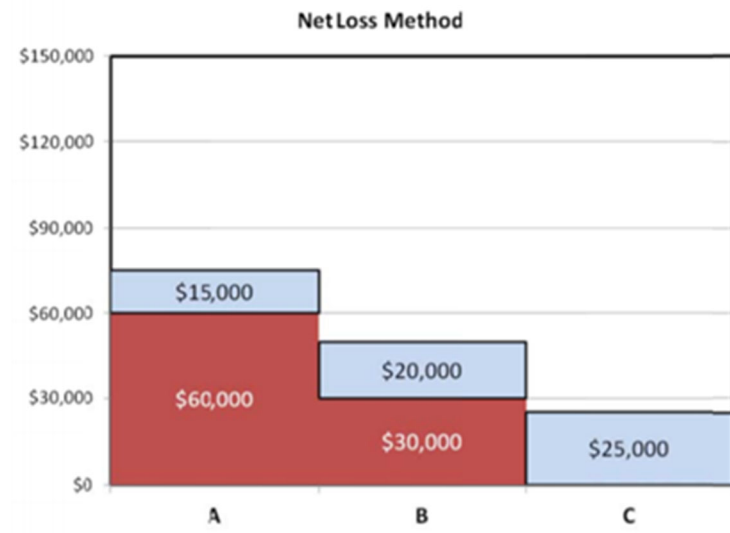
46. Under the net loss or net investment method, recoveries are considered as an offset to the claim amount, as opposed to a pre-receivership recovery, and investors receive a *pro rata* distribution based on their claim amount compared to the total amount of all allowed claims in the case. *U.S. Commodity Futures Trading Comm’n v. Lake Shore Asset Mgmt. Ltd.*, 2010 WL 960362, at *9 (N.D. Ill. Mar. 15, 2010). In other words, a pre-receivership withdrawal would only reduce an investor’s claim amount, not their eligibility to receive a distribution as is the case under the rising tide methodology. This methodology would pay all Class 2 Claimants on a *pro rata* basis based on the dollar amount of their claim compared to the total dollar amount of all Claimants.

iii. EXPLANATION OF LAST STATEMENT METHODOLOGY (NOT RECOMMENDED)

47. Under the last statement method, an investor’s claim amount is determined by taking the value of their investment as of the last investor statement. *In re Bernard L. Madoff Invs. Secs. LLC*, No. 15-CV-01151, 2016 WL 183492, at *1 (S.D.N.Y. 2016). Courts have rejected the use of the last statement method when statements are based on fictitious profits as this method has “the absurd effect of treating fictitious and arbitrarily assigned paper profits as real and would give legal effect to [the Ponzi scheme’s] machinations.” *In re Bernard L. Madoff Invs. Secs., LLC*, 779 F.3d 74, 78 (2d Cir. 2015). Here, the Last Statement Method would calculate net equity based on the fictitious account balances shown on the last statements provided to the investors of POA and is therefore not equitable or appropriate.

iv. ANALYSIS OF RISING TIDE METHODOLOGY VERSUS NET LOSS METHODOLOGY

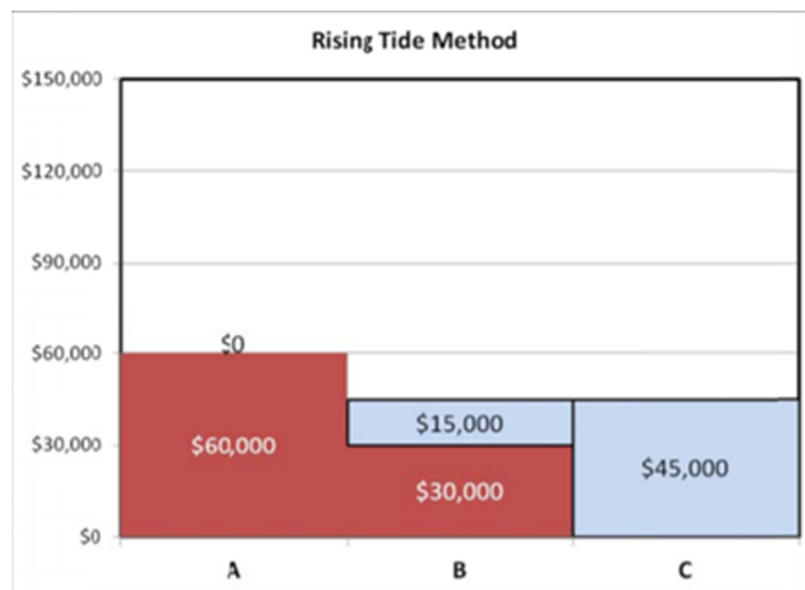
48. The Seventh Circuit in *SEC v. Huber* provided two useful charts copied below to illustrate the differences between the net loss (or net investment) and rising tide methodologies. In the Seventh Circuit's example, the Court assumed that investors A, B, and C each invested \$150,000 in the *Ponzi* scheme. Investor A withdrew \$60,000 before the scheme collapsed, Investor B withdrew \$30,000 before the scheme collapsed, and Investor C withdrew nothing. Thus, Investor A lost \$90,000, Investor B lost \$120,000, and Investor C lost \$150,000. The Seventh Circuit then assumed that the Receiver had \$60,000 to distribute. Applying the net loss method, Investors A, B, and C would each receive 1/6 of their loss as there was a total of \$60,000 in assets and \$360,000 in losses, *i.e.* $\$60,000 / (\$90,000 + \$120,000 + \$150,000)$. In other words, Investor A would receive \$15,000, Investor B would receive \$20,000, and Investor C would receive \$25,000. Despite each investor investing the same amount in the *Ponzi* scheme, Investor A will have only lost \$75,000, Investor B will have lost \$100,000, and Investor C would have lost \$125,000.



See *SEC v. Huber*, 702 F.3d at 904-06.

49. Under the rising tide methodology, however, pre-receivership withdrawals are considered in determining whether an investor is entitled to a distribution, and if so, in what amount

and in what order. Using the example in *Huber*, the Receiver has \$60,000 in assets to distribute. Because Investor A has already received \$60,000 pre-receivership, it would not recover anything further. The \$60,000 available would be distributed between Investors B and C to bring their distributions as close as possible to the amount Investor A received pre-receivership. Because Investor C had not received anything on its investment, it would first be entitled to \$30,000 so that Investors B and C will have both received \$30,000. The remaining \$30,000 would be shared equally between Investors B and C. Thus, Investor B would receive a \$15,000 distribution and Investor C would receive an additional \$15,000 for a total distribution of \$45,000. The following chart from *SEC v. Huber* illustrates the effect of the same \$60,000 distribution under the rising tide methodology. These charts show that the rising tide methodology has the ability to neutralize the worst losses amongst the victims of the defrauded investors; whereas the net loss methodology can favor investors who made pre-Receivership withdrawals.



See *SEC v. Huber*, 702 F.3d at 904-06.

50. Another way to compare the amount investors receive under the net loss methodology vs. the rising tide methodology is to consider the percentage of each investor's loss.

Using the same *SEC v. Huber* example above, Investor A lost 60% of its investment pre-receivership, Investor B lost 80%, and Investor C lost 100%. All three investors will receive distributions under the net loss methodology, with Investor A going from a 60% loss pre-receivership to a 50% loss, Investor B going from an 80% loss to a 67% loss, and Investor C going from a 100% loss to an 83% loss. Under the rising tide methodology, Investor B will not receive a distribution until Investor C's loss percentage reaches 80%, and Investor A will not receive a distribution until Investor B's and Investor's C's loss percentage reaches 60%. Because Investor B and Investor C's loss percentage reached only 70%, Investor A in the example above will not receive a distribution under the rising tide methodology. Once again, the rising tide methodology seeks to treat all similarly situated investors the same by using the distribution process to equalize the losses suffered by the victims throughout the entire *Ponzi* scheme by not favoring those who received larger pre-receivership withdrawals earlier in the *Ponzi* scheme. The rising tide methodology favors investors who lost the highest percentage of their principal investment and ensures the most-harmed investors receive distributions before those who lost a lower percentage of their principal investment.

v. REINVESTED DIVIDENDS SHOULD BE IGNORED

51. Consistent with the rising tide method of distributions, any reinvested dividends in the Fund should be ignored for the purposes of determining distributions. Any such dividends were the reinvestment of "profits" which were fictitious. *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC (In re Bernard L. Madoff Inv. Sec. LLC)*, 424 B. R. 122, 138 (Bankr. S.D.N.Y. 2010) ("claims should be based upon the net cash invested in the scheme, not the fictitious interest or dividend reinvestments reflected on the claimants' account statements").

vi. COLLAPSING OF CERTAIN INVESTMENTS IS APPROPRIATE

52. The Receiver also requests the Court allow the Receiver to collapse investor accounts that share the same name (*e.g.*, John Smith, individually, and John Smith, IRA). For example, there are some investors that hold multiple accounts and such accounts have differing results. A person may have incurred a loss on one account but received a profit on the other account. In such instances, the Receiver proposes that such accounts be treated as one account to ensure that Class 2 Claimants are treated identically with respect to the total recovery of their principal investments. If, however, an investor invested in their own name, and then also owned an interest in an entity that had a separate investment, those accounts should remain separate.

vii. APPLICATION OF RISING TIDE METHODOLOGY TO CLASS 2

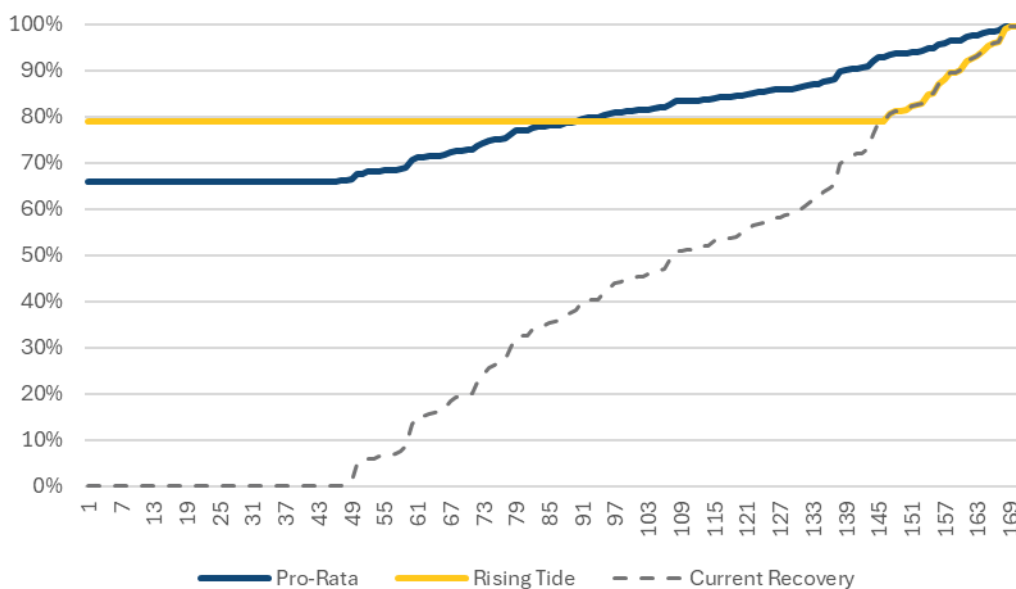
53. After Class 1 Claimants are paid in full, the Receiver recommends that a rising tide methodology be applied to Class 2 Claimants. 171 Investor Claimants incurred a loss on their investment with POA across 198 accounts. 107 Investor Claimants lost 50% or more of their principal investment, with 46 Investor Claimants losing 100% of their investment.

54. If the Court adopts a rising tide methodology, and assuming an aggregate \$15,000,000 distribution to Class 2, 146 Investor Claimants would receive a distribution increasing the lowest recovery from 0.0% to 79.11%. 25 Investor Claimants would not receive a distribution as they already recovered at least 79.11% of their principal investment. To be clear, this calculation is on a cash in versus cash out basis¹³.

55. If the Court were to adopt the net loss method, all allowed Investor Claimants would receive a distribution; however, it would be at the cost of the allowed Claimants who

¹³ For example, if an investor invested \$100,000, reinvested its “dividends”, and never received any cash back from the Fund, it would have a 100% loss and a claim for \$100,000. If another investor invested \$100,000 and received \$50,000 in “dividend” distributions over the life of its investment, it would have a 50% loss and a \$50,000 claim.

sustained a 100% loss. Instead of these Claimants recovering 79.11% of their principal under rising tide methodology, the lowest recovery would drop to 66.07% under the net loss methodology. Accordingly, the allowed Investor Claimants who lost everything would suffer at the expense of the investors who received distributions pre-Receivership.



56. The rising tide is also a more equitable distribution methodology to apply here as 81 Investor Claimants would recover more under a rising tide methodology than net loss, assuming a \$15,000,000 distribution, whereas 90 Investor Claimants would receive a higher recovery under the net loss methodology.

57. Accordingly, the Receiver recommends the Court adopt a rising tide methodology as (1) it equalizes the lowest percentage return victims of the *Ponzi* scheme recover on their investment, and (2) it raises the lowest percentage of recovery to 79.11% with a \$15,000,000 distribution when compared against the net loss methodology.

D. OTHER RELIEF/PROCESS FOR MAKING DISTRIBUTIONS

58. To be eligible for a distribution payment, the Receiver requests the Court enter an Order that the all Investor Claimants be required to provide the Receiver with a completed and

signed W-9 on the most recent form, which will be mailed and/or emailed to each allowed Claimant and is also available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.

59. The Receiver is still in the process of monetizing the various assets of the Receivership Estate. The Receiver anticipates that sufficient funds will be available to make a first and final distribution to Class 1 Claimants upon the entry of an order approving this Plan. The Receiver further anticipates the ability to make a first interim distribution to Class 2 Claimants during Q3 of 2025. The Receiver requests the authority to make further periodic interim distributions to Class 2 Claimants as further assets are monetized. Specifically, the Receiver requests authority to make such interim distributions when, in the Receiver's business judgment, sufficient funds are maintained by the Receivership Estate, subject to adequate amounts reserved for the Receiver's Retained Personnel and other administrative claims, and after considering the costs to make such an interim distribution. When the Receiver determines a further interim or final distribution is advisable, the Receiver proposes that he file a notice (the "***Distribution Notice***"). Within 30 days of the filing of the Distribution Notice, the Receiver will make distributions consistent with this Plan as approved by the Court. Distributions will be sent to the same address on file with the Fund that all prior notices and other documents have been sent to the claimants in this case.

60. The Receiver will distribute payments to each allowed Claimant that has returned a W-9 to the Receiver. If an allowed Claimant does not return a W-9 or does not cash a check received on account of a distribution, the Receiver will retain such allowed Claimant's distribution in escrow. The Receiver will make his best efforts to make contact with any allowed Claimant that does not return a W-9 or cash their distribution check. If prior to the final distribution in this case, there are any allowed Claimants that have failed to return a W-9 or cash their distribution check,

the Receiver will file a notice naming such allowed Claimants, as well as detailing the efforts he has taken to notify such allowed Claimant of their entitlement to a distribution. If no W-9 is returned (or if a distribution check is not cashed) before the final distribution, then the underlying funds will remain in the Receivership Estate for distribution to other allowed Claimants in this case pursuant to the priority established by the Plan or as otherwise ordered by this Court.

WHEREFORE, the Receiver respectfully requests that the Court enter an order approving this Plan, including, but not limited to:

- i. Approving the classification of claims as described in Section II (E) of this Plan;
- ii. Approving the method of distribution, including approval of a rising tide distribution methodology for Class 2 Claimants;
- iii. Approving the process for making distributions detailed in Section III (D) of this Plan; and
- iv. For all other and further relief to which the Receiver shows himself justly entitled.

Respectfully submitted,

KANE RUSSELL COLEMAN & LOGAN, PC

By: /s/ Trip Nix
William R. "Trip" Nix
Texas Bar No. 24092902
401 Congress Ave., Ste. 2100
Austin, Texas 78701
Telephone: 512.487.6568
tnix@krcl.com

ATTORNEYS FOR RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that, on May 20, 2025, a true and correct copy of the foregoing Motion was served electronically upon all counsel of record via eFileTexas. The Motion will, as soon as practicable, be served on all known POA investors via the methods set forth above.

/s/ Trip Nix
Trip Nix

EXHIBIT A



HARNEY
PARTNERS

PRIDE OF AUSTIN HIGH YIELD FUND I, LLC



Forensic Report
April 2025

Disclaimer & Limitations of Analysis

- On May 6, 2024, the Honorable Amy Clark Meachum entered the *Amended Agreed Order Appointing Receiver* ("Receivership Order") appointing Gregory S. Milligan ("Milligan") as receiver over Pride of Austin High Yield Fund I, LLC ("POA") to preserve and liquidate the property of POA. Milligan retained Harney Partners ("HP") as financial advisers to assist him in executing upon his duties as receiver to maximize value for creditors and members of POA.
- The Forensic Report contained herein has been prepared based upon the information, documentation, and data available to Milligan and HP at this time, including direct access to POA's accounting system, banking records from Frost Bank for periods after June 2017, emails produced by Robert Buchanan ("Buchanan") as required under the Receivership Order and in response to production requests by Milligan, and other relevant publicly available information deemed reliable in the sole discretion of Milligan and HP. Buchanan provided the emails and other information in connection with his duties under the Receivership Order and Buchanan has represented to Milligan and HP that such materials are a complete conveyance of the information and documentation required by the Receivership Order. While reasonable efforts have been made to verify the accuracy and completeness of all information, no independent verification or audit has been conducted. Milligan and HP are not responsible, and assume no responsibility for any inaccuracies, omissions, or misrepresentations in the information, documentation, and data provided.
- This Draft Report does not constitute an audit, review, or assurance under generally accepted auditing standards, nor does it provide legal opinions or conclusions. This Draft Report does not constitute legal or financial advice. The findings, conclusions, and opinions expressed herein are based on the available evidence and professional judgment as of the date of this Forensic Report and are subject to change.
- **THIS FORENSIC REPORT IS CURRENTLY BEING PROVIDED TO THE PARTIES FOR INFORMATIONAL PURPOSES ONLY AS PART OF THE RECEIVER'S REGULAR STATUS REPORTS TO THE COURT.** MILLIGAN AND HP RESERVE THE RIGHT TO USE THE FORENSIC REPORT AND THE FINDINGS STATED THEREIN IN CONNECTION WITH REQUESTS FOR RELIEF IN THE RECEIVERSHIP CASE OR ANY ASSOCIATED CASES. MILLIGAN AND HARNEY PARTNERS FURTHER RESERVE THE RIGHT TO AMEND, SUPPLEMENT, EDIT, CORRECT FOR ANY REASON.

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I. Executive Summary

Overview of Forensic Report



Two main questions to be answered:

- **When, if ever, did this become a Ponzi scheme and / or fraud?**

Ponzi scheme started from the very beginning of the Pride of Austin High Yield Fund I, LLC (the “Fund”) – distributions were declared and paid from purported profits that were not realized yet and so the distributed money could only have come from invested capital. Numerous badges of fraud have also been identified.

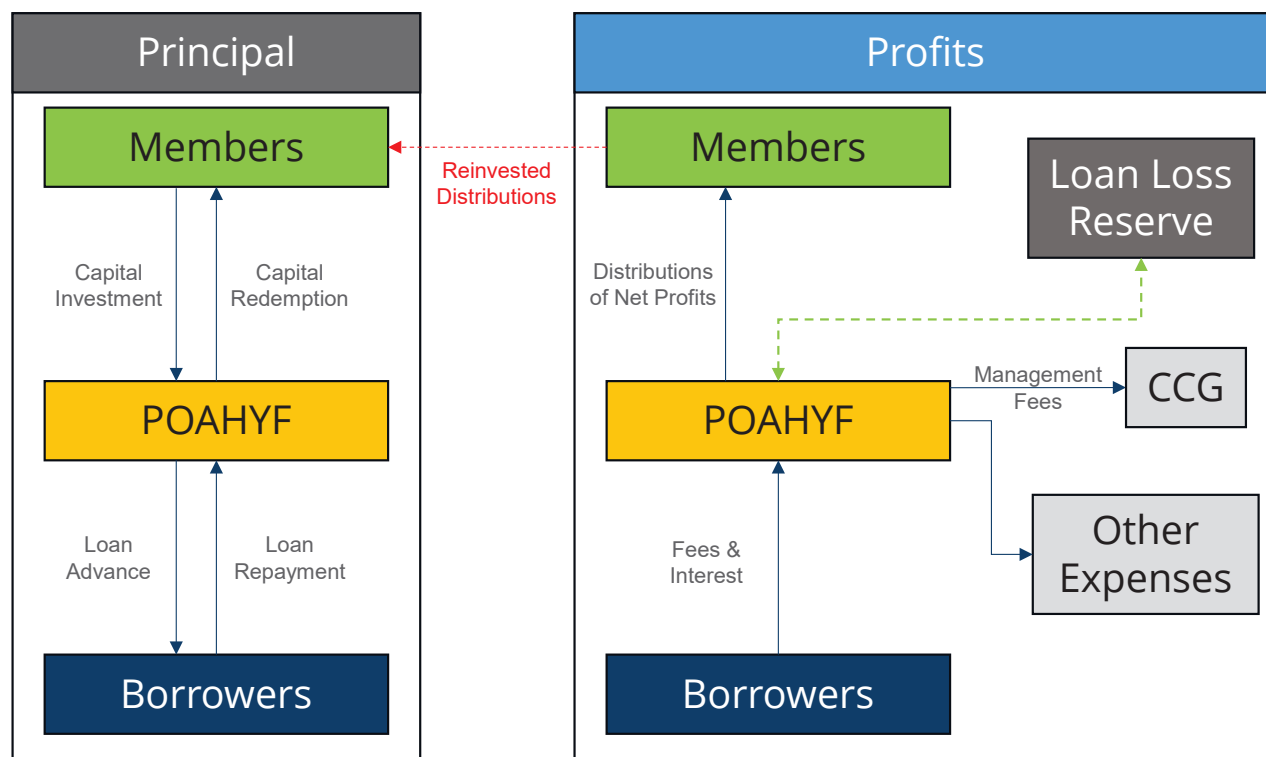
- **What happened to the Member’s invested capital?**

Majority of the funds were distributed back to Members disguised as profits. A material amount was misappropriated by Manager and transferred into his affiliate home builder entity.

Illustrative Fund Cash Flows

How Cash Flow Should Work:

- Fund raises capital from Members in order to make loans to Borrowers.
- Fund generates revenue from fees and interest paid by Borrowers on the principal outstanding.
- Fund distributes Net Profits to Members, which is the fees and interest collected from Borrowers net of Fund expenses, including management fees.
- As a lender, Fund's potential profit / return on investment is limited to interest and fees. Thus, the primary concern of a lender is typically avoiding loss of principal through diligent underwriting of creditworthiness of borrowers and underlying value of the collateral.



Illustrative Fund Net Profits

PRIDE OF AUSTIN HIGH YIELD FUND I, LLC \$100,000,000 PRIVATE PLACEMENT MEMORANDUM

TERMS OF THE OFFERING

Each quarter, the Manager will distribute the LLC's accrued Net Profits, to the extent that there is cash available and provided that the quarterly distribution will not impact the continuing operations of the LLC as follows: 100% to the Members on a pro-rata basis.

"Net Profits" is defined as the LLC's quarterly gross income less the payments of the LLC's monthly operating expenses (such as the Manager's Fees, amounts due by the LLC on any loans or line of credit, audit costs, and LLC taxes) and an allocation of income for a loan loss reserve. All distributions will be made on a quarterly basis, in arrears.

An Investor may elect to (i) receive quarterly cash distributions from the LLC in the amount of that Member's share of Net Profits for distribution; or (ii) allow his, her, or its distributions to be reinvested and increasing his, her, or its ownership interest in the LLC; or (iii) some combination of (i) and (ii). Such election will become effective on the first (1st) day of the quarter following receipt of the election. If no election is made, then the quarterly distribution will be a cash distribution. An election to reinvest distributions is revocable with thirty (30) days notice to the LLC. Cash distributions reinvested by Investors who make such an election will be used by the LLC to make further mortgage loans or for other proper LLC purposes. Reinvestment distributions will only be allowed if this Offering is still active.

By the end of the LLC's fiscal year and after completion of its annual audit, the Manager will make every effort to have distributed to each Member the amount of Net Profits that will be allocated to that Member on the Schedule K-1 that he, she, or it receives for income tax reporting. However, the amount of income reported to each Member on his, her, or its Schedule K-1 may differ somewhat from the actual cash distributions made during the fiscal year covered by the Schedule K-1 due to, among other things, the loan loss reserve and factors unique to the tax accounting of LLCs, such as the treatment of investment expense.

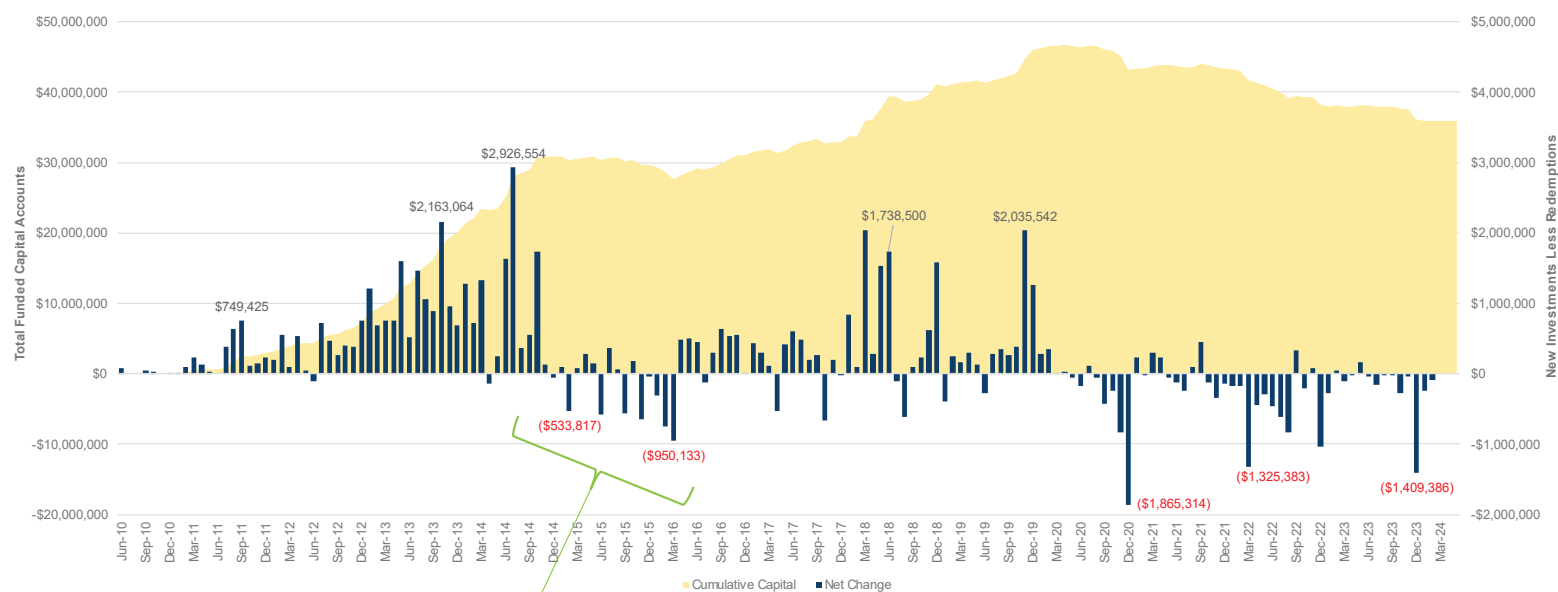
How Net Profits Should Work:

	Fiscal Quarter
REVENUE	
Fees	\$ 60,000
Interest Income	60,000
Other	
EXPENSES	
Management Fees	(20,000)
Legal & Professional Fees	(5,000)
REO Expenses	
GROSS PROFIT	\$ 95,000
Allocation for Loan Loss Reserve	(45,000)
NET PROFITS	\$ 50,000

- Distributions are contingent on availability of cash
- Definition of Net Profits explicitly references an allocation of income for a loan loss reserve.

Member Investments

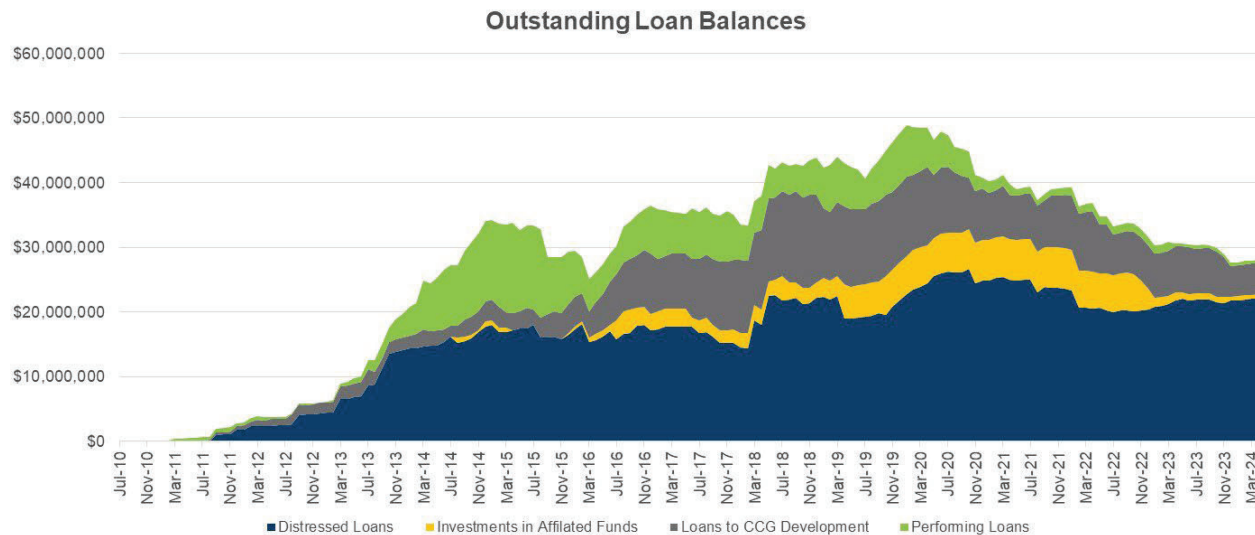
- After receiving its first investment in June 2010, the Fund grew to over \$30 million of invested capital by late 2014.
- Timing of the wave of redemptions in 2015 and early 2016 likely due to two-year lock-up period after initial investment
- Starting in early 2020, redemptions outpaced new capital investments.



Assets

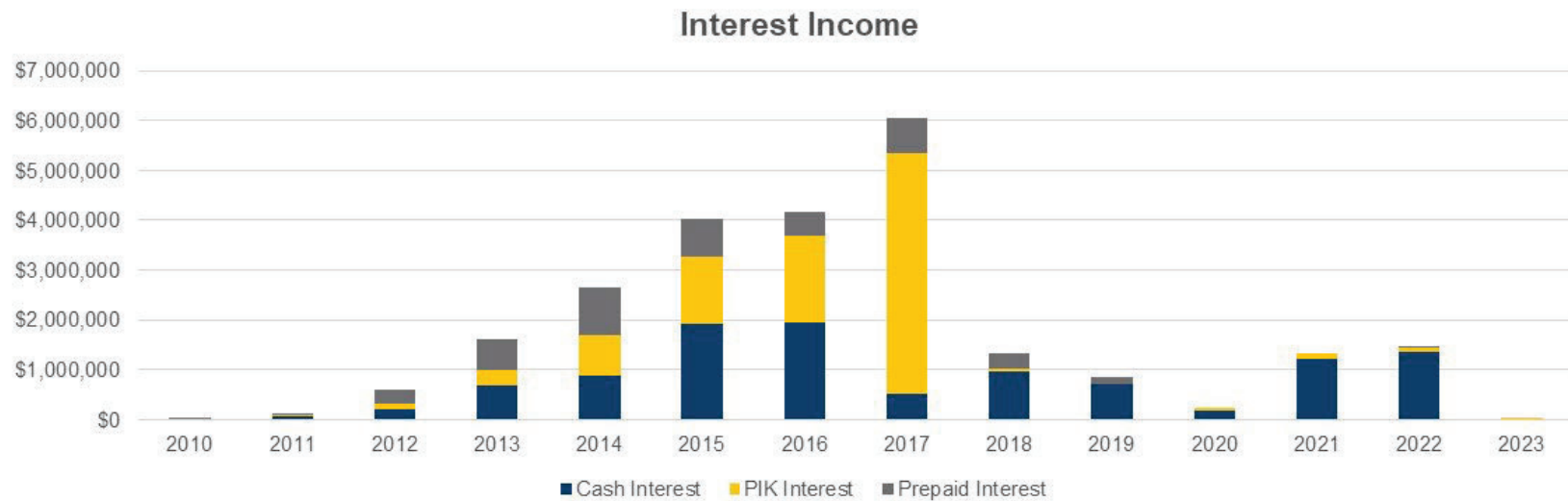
Fund's loan portfolio had numerous foreclosures and bankruptcies

- In the adjacent loan schedule from December 31, 2012, the four largest loans outstanding (highlighted in red), accounting for ~77% of the portfolio, were ultimately foreclosed upon or the borrower filed for bankruptcy protection.
- Total loans outstanding decrease starting in 2020, driven by the use of loan payoffs to pay distributions to members.
- Receiver continues to work diligently to maximize the recovery from the remaining assets. However, the ultimate recovery will likely be significantly lower than the book value of the assets of approximately \$28 million as of April 2024.



Revenue Recognition

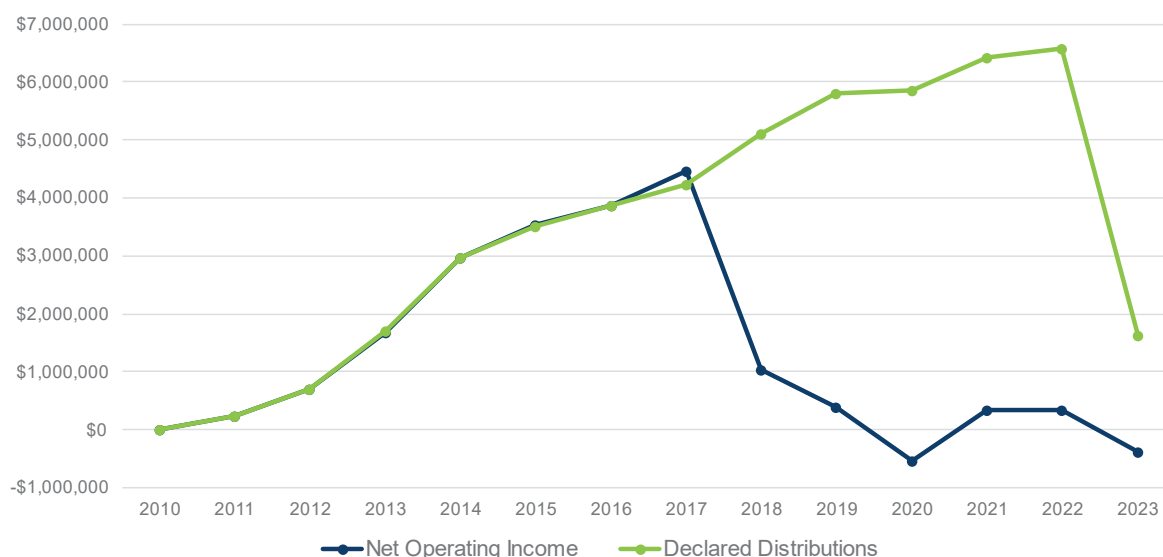
- Fund accepted PIK interest from Insider loans, which increased cash distributions paid to Members without the Fund receiving the associated cash from the Borrowers.
- Fraudulent entries in 2015, 2016, and 2017 increased revenue and cash distributions



Distributions vs Net Profits

Net Operating Income (i.e. Profits) is an accounting concept and not indicative of the cash flow received and available to distribute to Members.

- Fund issued distributions to Members at levels unsupported by operating results.
- As a result, the cash used to pay distribution could only have come from Member's capital investments.
- Problem started early on as distress in the loan portfolio was not appropriately accounted for or reserved for from a cash perspective.
- When adjusted for non-cash items, declared distributions exceeded net operating income in the years before 2017.

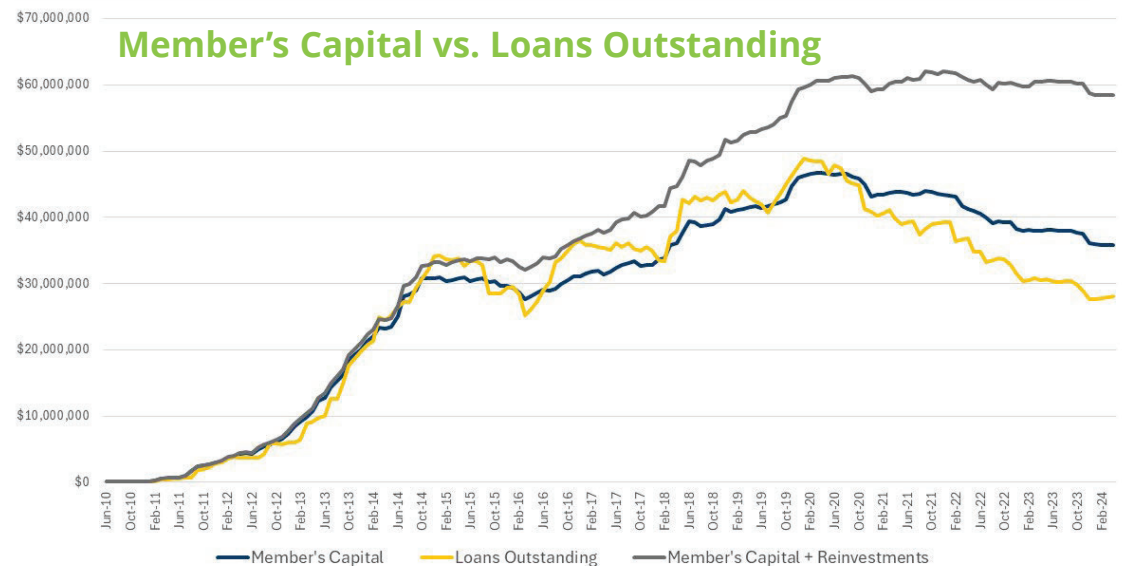


Distribution of Income was Return of Capital

- By declaring and paying distributions far more than actual profits, the capital account of the Fund exceeded its asset base.
- Approximately 50% of the distributions to Members were reinvested, which further exacerbated the divergence between the total capital basis and the asset base but reduced the cash needed by the Fund to make the distributions. This helps the Fund stay afloat and delayed when the collapse of the scheme.

Distributions of Income

To the extent cash distributions exceed the current and accumulated earnings and profits of the LLC, they will constitute a return of capital, and each Member will be required to reduce the tax basis of his, her, or its Membership Interests by the amount of such distributions and to use such adjusted basis in computing gain or loss, if any, realized upon the sale of Membership Interests. Such distributions will not be taxable to Members as ordinary income or capital gain until there is no remaining tax basis, and, thereafter, will be taxable as gain from the sale or exchange of the Membership Interests.





II. Ponzi Scheme Red Flags

What is a Ponzi Scheme?

- According to the Securities and Exchange Commission, a Ponzi scheme is an investment fraud that involves the **payment of purported returns to existing investors from funds contributed by new investors**.
- Ponzi scheme organizers often solicit new investors by promising to invest funds in opportunities claimed to generate high returns with little or no risk.
- **With little or no legitimate earnings**, Ponzi schemes require a constant flow of money from new investors to continue.
- **Ponzi schemes inevitably collapse**, most often when it becomes difficult to recruit new investors or when a large number of investors ask for their funds to be returned.

Common Red Flags

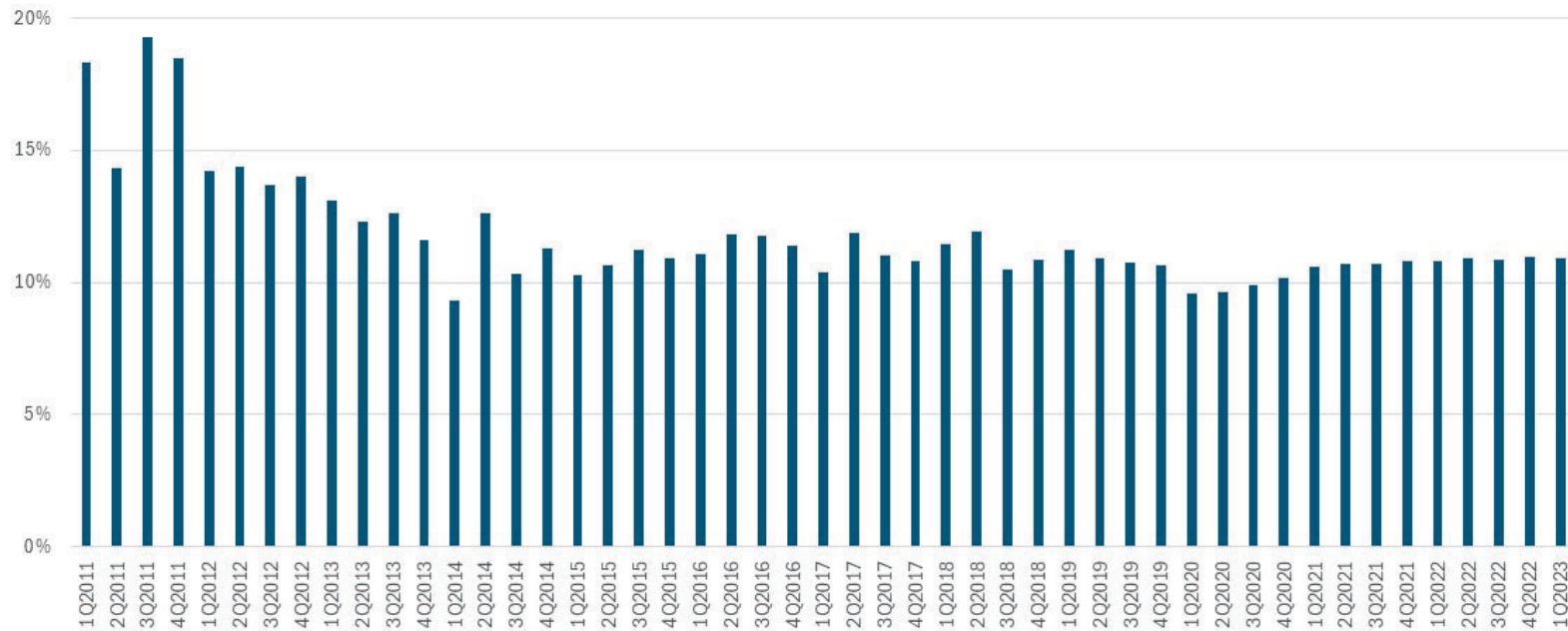
- ✓ High returns with little or no risk
- ✓ Overly consistent returns
- ✓ Unregistered investments
- ✓ Unlicensed sellers
- ✓ Secretive, complex strategies
- ✓ Issues with paperwork
- ✓ Difficulty Receiving Payments
- ✓ Pressure to Recruit

RED FLAGS: High Returns with Little or No Risk

- *Every investment carries some degree of risk, and investments yielding higher returns typically involve more risk. Be highly suspicious of any “guaranteed” investment opportunity.*
- Fund was a hard money lender – offering short term loans, collateralized by real property with high interest rates and fees.
- Borrowers who utilize hard money lenders often have exhausted more traditional, lower cost sources of capital, like regulated banks and credit unions.
- As a result, the Fund’s borrowers are higher risk – meaning more defaults, foreclosures, non-performing loans are likely to occur.
- Despite its claims about its discipline regarding its rigorous loan parameters, Fund was not immune from the pitfalls of high-risk borrowers and experienced foreclosures and chapter 11 bankruptcies related to early loans made by the Fund.
- However, these foreclosures and bankruptcies hardly impacted the distributions paid to investors.

RED FLAGS: Overly Consistent Returns

- Investments tend to go up and down over time. Be skeptical about an investment that regularly generates positive returns regardless of overall market conditions.



RED FLAGS: Unregistered & Unlicensed

- *Ponzi schemes typically involve investments that are not registered with the SEC or state regulators. Registration is important because it provides investors with access to information about the company's management, products, services, and finances.*
- *Federal and state securities laws require investment professionals and firms to be licensed or registered. Most Ponzi schemes involve unlicensed individuals or unregistered firms.*

POA High Yield Fund 1 - Legal

Regulation D Security
Filed in all 50 States
Organized as an LLC in Texas
Investors are Members
100% Owned by Investors



- Starting in January 2010, the Fund filed Form D pursuant to Rule 506 of Regulation D of The Securities Act of 1933, which is a claimed exemption to the registration of the securities.
- Fund filed amendments to Form D and state blue sky filings each year until 2016.
- In June 2016, Fund received legal advice that it had serious regulatory compliance deficiencies and was likely not exempt from registering as an Investment Company or being a license Investment Adviser.
- Recommendation was to wind down the Fund and start a new one with a more rigorous compliance approach.

RED FLAGS: Secretive, complex strategies

- *Avoid investments if you don't understand them or can't get complete information about them.*
- Fund strategy is relatively straightforward
- Reporting was extremely limited:
 - Summary Financials, if provided at all
 - Dodged investor request for audit of Fund

Financials Provided to Investor in June 2016

Pride of Austin High Yield Fund I, LLC Balance Sheet As of December 31, 2015

	Dec 31, 15
ASSETS	
Current Assets	34,083,915.08
TOTAL ASSETS	34,083,915.08
LIABILITIES & EQUITY	
Liabilities	397,463.99
Equity	33,686,451.09
TOTAL LIABILITIES & EQUITY	34,083,915.08

Pride of Austin High Yield Fund I, LLC Profit & Loss January through December 2015

	Jan - Dec 15
Ordinary Income/Expense	
Income	4,420,538.02
Expense	894,757.22
Net Ordinary Income	3,525,780.80
Other Income/Expense	
Other Expense	
80000 · Quarterly Reinvestments	0.00
Total Other Expense	0.00
Net Other Income	0.00
Net Income	3,525,780.80

PRIDE OF AUSTIN HIGH YIELD FUND I, LLC \$100,000,000 PRIVATE PLACEMENT MEMORANDUM

By the end of the LLC's fiscal year and after completion of its annual audit, the Manager will make every effort to have distributed to each Member the amount of Net Profits that will be allocated to that Member on the Schedule K-1 that he, she, or it receives for income tax reporting. However, the amount of income reported to each Member on his, her, or its Schedule K-1 may differ somewhat from the actual cash distributions made during the fiscal year covered by the Schedule K-1 due to, among other things, the loan loss reserve and factors unique to the tax accounting of LLCs, such as the treatment of investment expense.

RED FLAGS: Secretive, complex strategies (Cont.)

- Threat of returning investment if not satisfied with reporting and information disclosure by the Fund:

From: Robert J Buchanan [<mailto:rjb@prideofaustin.com>]

Sent: Wednesday, January 16, 2013 12:17 PM

To: [REDACTED]

Cc: David Owen

Subject: RE: Pride of Austin investment

I have attached our loan schedule (as of December 31, 2012). I hope this will put your mind at ease. We don't spend time making flashy reports and such. What we do spend our time on is marketing and branding our company for two reasons. To attract borrowers and investors. This is why you see happy hours, webinars and seminars.

If this doesn't help put your mind at ease then the next step is for us to issue you a check for \$25,000 and terminate your subscription agreement. Please don't take this the wrong way but we have much bigger investors in our fund that are just fine with the amount of reporting that we do. If this is not enough for you then I suggest we end our relationship now as we don't have the manpower to hold your hand at all times.

Please advise us as what you would like to do.

RED FLAGS: Issues with paperwork



- *Account statement errors may be a sign that funds are not being invested as promised.*

Books & Records Lawsuits

- At least 36 lawsuits were filed in Travis County against the Fund. In most cases, CCG and Buchanan were also named as defendants, and occasionally additional parties as well.
- Virtually all the lawsuits included a request for books and records pursuant to the Texas Business Organizations Code and the POA company agreement, along with demands for full redemption of the investment. Mr. Buchanan and CCG routinely ignored such lawsuits for months, resulting in seven default judgments and numerous contempt findings.

RED FLAGS: Difficulty Receiving Payments

- *Be suspicious if you don't receive a payment or have difficulty cashing out. Ponzi scheme promoters sometimes try to prevent participants from cashing out by offering even higher returns for staying put.*

Any ETA on my withdrawal request?

I am working on the return of your capital as you requested. I can do half of the amount today and the other half in the next two weeks once a partial loan payoff is received. I know this is a little different than we initially discussed but I hope you can live with this arrangement.

April 18, 2022

Robert,

This is the fourth time I am writing to you requesting to closeout my two Pride of Austin accounts. You have not replied to my three earlier emails. It is imperative that I receive the funds that I have invested and grown over the past 9 years. Attached to this letter is a proposal requesting distribution of all funds over a 5-year timeframe.

RE: "We just received the loan paydown as mentioned below. Tomorrow you will receive an email with the following capital reductions for both your accounts:"

Yes, we did talk finally. It was good to hear from you that there are no problems with the fund.

We expect two partial loan payoffs by mid-March. These two payoffs will allow the Fund to return a 100% of your investment amount. I will keep you up to date if there are any expected delays or perhaps a quicker return of your investment.

RED FLAGS: Recruiting & Soliciting New Investors

- *If there is significant emphasis on attracting new investors and incentives are offered for doing so, it could be a sign of a Ponzi scheme. This is a means to continue the inflow of new capital to keep the scheme going.*

Incentive Programs & Bonuses

The F1 Contest ends at the end of September. So far the top three place leaders are:

25 points – [REDACTED]
22 points – [REDACTED]
21 points – [REDACTED]

1st place are 2 tickets to F1 Finals race day on Sunday Nov 17 as guests of Robert and his lovely wife Drew

2nd place are 2 tickets to F1 Preliminaries on Saturday Nov 16 as my guests

You earn 1 point for each new investor you introduce to POA who makes an investment; 1 point for each multiple of \$25,000 that a new investor invests; and 1 point for each multiple of \$25,000 that an existing investor increases his, her or its investment.

Solicitations for Referrals / Introductions

Excerpt from Investor Letters:

As a reminder we are actively pursuing funds for both POAHY and POAOF. Let me know if you would like to increase your investment account or know someone who is interested in the possibility of becoming an investor.

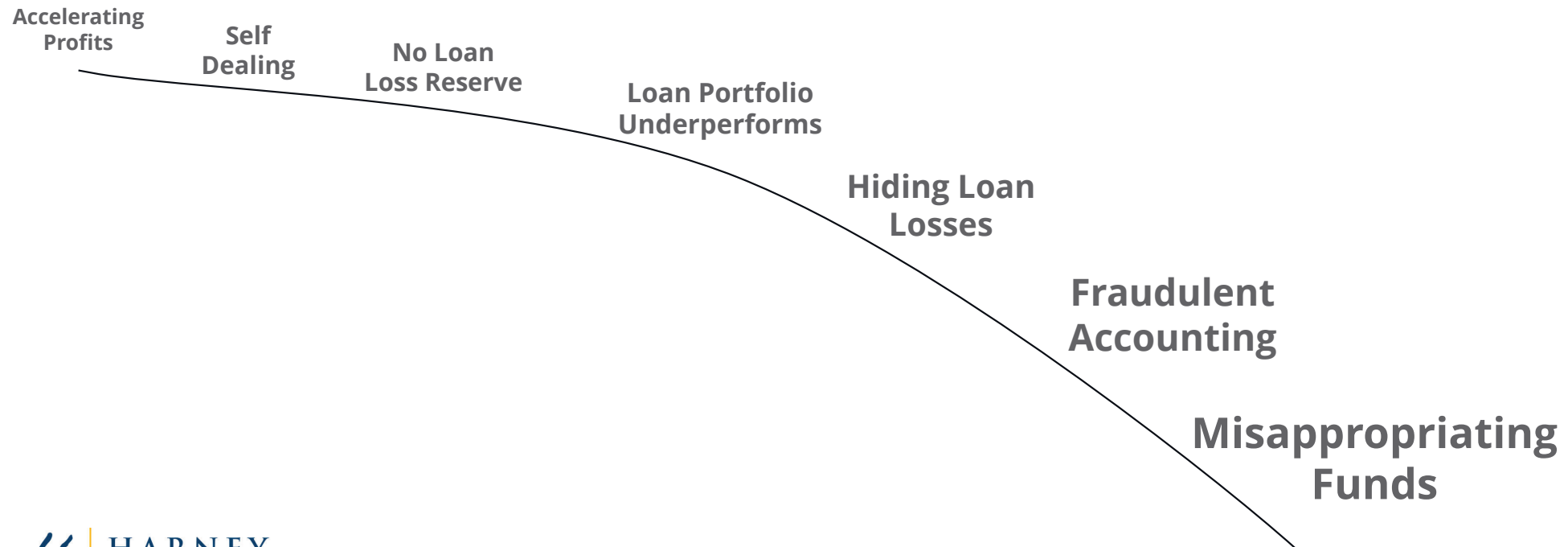
Pride of Austin High Yield Fund is open to more investments through the end of the year. We have a healthy deal flow of loans coming into underwrite and to fund.



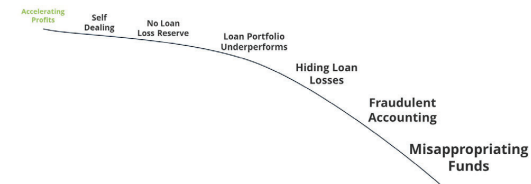
III. Ponzi Scheme Elements

Ponzi Scheme Slippery Slope

Ponzi schemes rarely begin as a master plan to defraud investors – small, unethical decisions or errors snowball into a massive, unsustainable fraud.



Accelerating Profits



Payment of purported returns to existing investors from funds contributed by new investors

- The below snapshot shows the first few transactions of the Fund and illustrates how the fund, from the very beginning, paid investors purported profits from invested capital, not from actual earnings.
- Before the Fund could close on its first loan to a borrower, the Fund issued 8% interest payments to its first two investors. The Fund was earning bank interest on the \$75,000 of cash, totaling \$131.11 from June to August 2010.



Accelerating Profits



Illustrative cash flows of \$100,000 loan at 12% annual interest:

- Accounting profit reflects **paper profits** while cash flow reflects **realized returns**—actual money in hand.

Borrower pays cash interest each month:

	Closing	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL
Principal Balance	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$0	
Cash Flows	(100,000)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	101,000	12,000
Revenue		1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
Distributions to Members				(3,000)			(3,000)			(3,000)			(3,000)	(12,000)
Cumulative Net Cash Flow	(100,000)	(99,000)	(98,000)	(100,000)	(99,000)	(98,000)	(100,000)	(99,000)	(98,000)	(100,000)	(99,000)	(98,000)	-	-

Borrower is allowed to pay interest in kind each month, increasing the outstanding loan balance:

	Closing	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL
Principal Balance	\$100,000	\$101,000	\$102,000	\$103,000	\$104,000	\$105,000	\$106,000	\$107,000	\$108,000	\$109,000	\$110,000	\$111,000	\$0	
Cash Flows	(100,000)												112,000	12,000
Revenue	-	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
Distributions to Members				(3,000)			(3,000)			(3,000)			(3,000)	(12,000)
Cumulative Net Cash Flow	(100,000)	(100,000)	(100,000)	(103,000)	(103,000)	(103,000)	(106,000)	(106,000)	(106,000)	(109,000)	(109,000)	(109,000)	-	-

Where does the cash come from to pay these distributions?

Accelerating Profits

Actual examples from the Fund's loan activity:

EXAMPLE: William & Allyson Bruner - Dogwood Terrace



	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	TOTAL
Loan Balance	\$23,355	\$33,752	\$34,140	\$34,546	\$34,944	\$35,359	\$35,780	\$36,192	\$36,622	\$37,043	\$37,484	\$37,484	\$39,103	\$0	
Cash Flow	(\$22,048)	(\$10,000)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$39,523	\$7,475
PIK Interest & Fees	\$1,307	\$397	\$388	\$406	\$398	\$416	\$420	\$412	\$430	\$421	\$440	\$0	\$1,620	\$420	\$7,475
"Net Profits" Distributed		(\$1,704)			(\$1,192)			(\$1,248)			(\$1,292)			(\$2,040)	(\$7,475)

- Loan funded in February 2012, repaid in full in March 2013 – netting profit of \$7,475
- While the loan was outstanding, the interest and fees were added to the loan balance rather than being paid in cash by the borrower.
- As a result, the Fund recognized \$5,435 of revenue in 2012 while not receiving any cash from the borrower. This revenue was incorporated into the Net Profits calculation and distributed out to Members in each quarter of 2013 without contributing any cash.
- Cash flow ultimately caught up with accounting profits when loan was repaid in March 2013 – but not before purported profits were paid from funds from Members' invested capital.

Accelerating Profits



Actual examples from the Fund's loan activity:

EXAMPLE: Fulshear Property One, LLC & Fulshear Property Two, LLC

	2011	2012	2013	2014	TOTAL
Loan Balance	\$780,249	\$1,450,641	\$3,022,910	\$3,303,985	\$3,303,985
Cash Receipts	\$130,592	\$150,000	\$172,165	\$0	\$452,758
Cash Disbursements	(\$592,726)	(\$670,542)	(\$1,560,669)	(\$240,968)	(\$3,064,905)
Interest & Fees	(\$131,150)	(\$181,088)	(\$429,974)	(\$52,464)	(\$794,676)
"Net Profits" Distributed	(\$131,150)	(\$181,088)	(\$429,974)	(\$52,464)	(\$794,676)

- Two related loans initially funded in September 2011 and December 2011, respectively.
- Loans were foreclosed upon in February 2014. Property is still owned.
- Borrower paid the Fund the Lender Points at each initial closing in 2011 but prepaid interest was net funded at closing.
- Borrower replenished prepaid interest in 2012 and paid modification / extension fees in 2013.
- Prior to the foreclosure, Fund distributed ~\$795K of accounting profits while only receiving ~\$453K of cash from the Borrower.
- Because the Fund still owns these properties, there was never a catch-up of the cash flow with the accounting profits.

Self Dealing



Self-dealing started almost immediately with loans to benefit Buchanan and Owen:

Owen

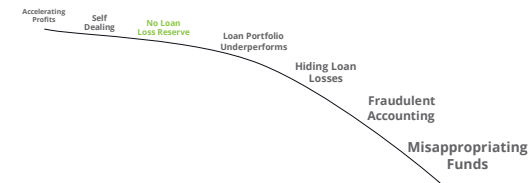
- Owen was facing financial ruin and contemplating bankruptcy when the Fund provided two loans:
 - ❑ 611 Bissonet: Fund paid \$14,000 in April 2011 to a bankruptcy attorney; Owen paid \$500 monthly but other advances and balance transfers increased the loan balance to over \$350K in 2015.
 - ❑ 525 Live Oak: Loaned \$15K in Oct 2010 and \$17K in Feb 2011 before purchasing existing mortgage in 2012. When sale proceeds were less than the loan balance, residual balance was transferred to other insider loans.

So my request is that I borrow \$15K at 14% and save the car. Do not give me that there is no real estate involved in that POAH has borrowed money unsecured from the fund. As long as interest payments are made and the principle is reduced as can be then there is no reason not to do that. Interest on \$15K is \$175 a month as opposed to the \$925 a month Acura payments. If I cannot pay back \$15K over a year then we are in a whole lot of trouble in all of the businesses. If you say no then I'll go back to the bankruptcy attorney. I am not loosing the Acura.

Buchanan

- Fund financed ~\$82K for the acquisition of the 105 Pine Barrens lot in Feb 2012
- Buchanan built his personal residence with a \$400K construction loan from Independent Bank and over \$380K from the Fund
- Construction loan from Independent Bank was converted to mortgage with deed of trust in favor of Independent Bank filed in January 2014.
- No repayments were ever made to the Fund; balance of over \$463K was transferred via accounting entries to two other loans of the Fund

No Loan Loss Reserve



- As noted in the PPM, the Fund was engaged in lending to high risk borrowers who would not qualify for loans from institutional lenders. This type of lending balances this higher risk with a higher return.
- Higher risk typically translates into higher defaults and higher losses.
- No loan loss reserve was ever set up to buffer the Fund from potential losses from bad loans. This is an elemental aspect of lending and required by regulators throughout the banking industry.

PRIDE OF AUSTIN HIGH YIELD FUND I, LLC

\$100,000,000

PRIVATE PLACEMENT MEMORANDUM

BUSINESS RISKS

Loan Defaults and Foreclosures

Since the LLC will be relying on its real property security to protect its investment to a greater extent than the creditworthiness of its borrowers, the LLC is likely to experience a borrower default rate higher than would be experienced if its loan portfolio was more heavily focused on borrower creditworthiness. Because of the LLC's underwriting criteria, the LLC may make loans to borrowers who would not qualify for secured loans from institutional lenders (i.e., banks and savings and loan associations).

Loan Portfolio Underperforms



- The red highlights below show the biggest borrowers defaulted early

Loan Schedule as of December 31, 2012

Address	Loan Type	Amount	Close Date	Maturity
South Austin White House	Land Development	\$ 2,540,000.00	9/26/12	9/1/13
Midtown--7400 Cameron Rd / Austin, TX	Retail Center Rehab	\$ 1,236,956.52	9/12/11	4/1/13
Cattell Inc--960 Greenbriar / Vidor, TX	SFR Rehab	\$ 76,500.00	8/1/12	4/1/13
POAH--525 Live Oak / Austin Tx	SFR New Construction	\$ 650,000.00	12/31/12	12/31/13
FP1--8045 FM 359 / Fulshear, TX	Medical Office New Construction	\$ 1,725,000.00	9/27/11	4/1/13
FP2--8043 FM 359 / Fulshear, TX	Medical Office New Construction	\$ 1,725,000.00	12/20/11	7/1/13
Bruner -- 73 Dogwood Terrace / Ellerslie, GA	SFR Rehab	\$ 35,000.00	2/1/12	1/31/13
POAH--5503 Clay Ave / Austin Tx	Lot Subdivision	\$ 775,000.00	12/31/12	12/31/13
MDG--1008 Jewell / Austin Tx	SFR New Construction	\$ 625,000.00	8/14/12	9/1/13
Total		\$ 9,388,456.52		

Hiding Losses Through Balance Transfers



- Rather than recognize losses from loans to Insiders, which would negatively impact profits, residual balances were transferred to other Insider loans or to loans in foreclosure.

Excerpt of Email to Tax CPA

Attached is the following on Live Oak:

1. Settlement Statement – The \$20k from seller is from David for a personal matter.
2. Live Oak Loan History from POAHYF – Shows loan paid in full with the following:
 - A. Proceeds from Sale - \$656,869.96
 - B. David - \$34,572.00
 - C. David personal matter - \$25,149.80
 - D. Rob - \$34,572.00

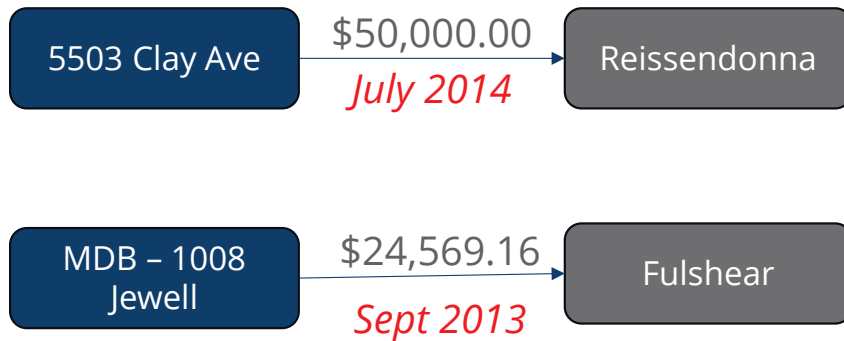


Hiding Losses Through Balance Transfers

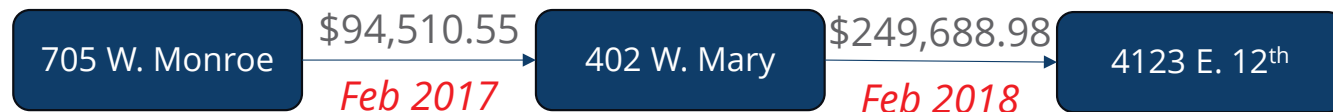


- Rather than recognize losses from loans to himself, Owen, or CCG Development, Buchanan would transfer remaining balances to other to CCG Development or to loans in foreclosure

Transfers to Loans in Foreclosure



Transfers to Other Insider Loans



Fraudulent Accounting



The below three accounting entries recognized over \$6.0 million of revenue (and thus profits) associated with the below two loans. No evidence was found to support such revenue

The Falls - Roseville

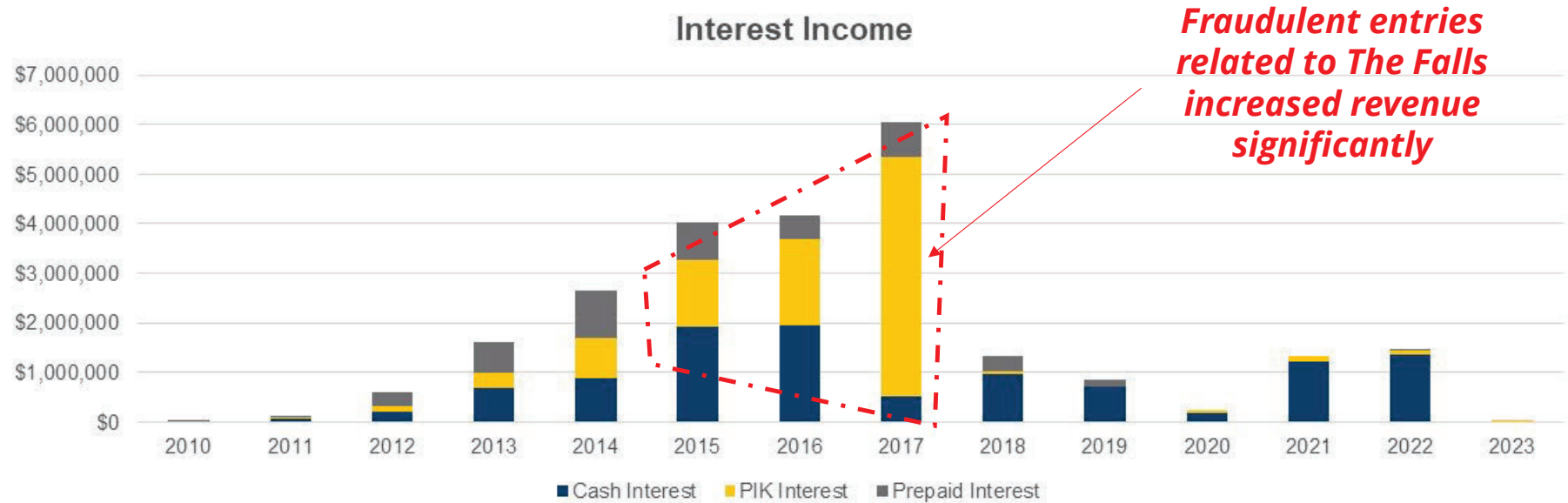
- The Falls – Roseville & Cedar Park
- Notice of Default sent on July 8, 2016
- Filed for Chapter 11 on July 11, 2018
- Loan, with balance over \$4.7 million including unpaid accrued interest, sold in April 2019 for \$3.7 million

The Falls – Cedar Park

- Funded in March 2016, repaid in July 2016

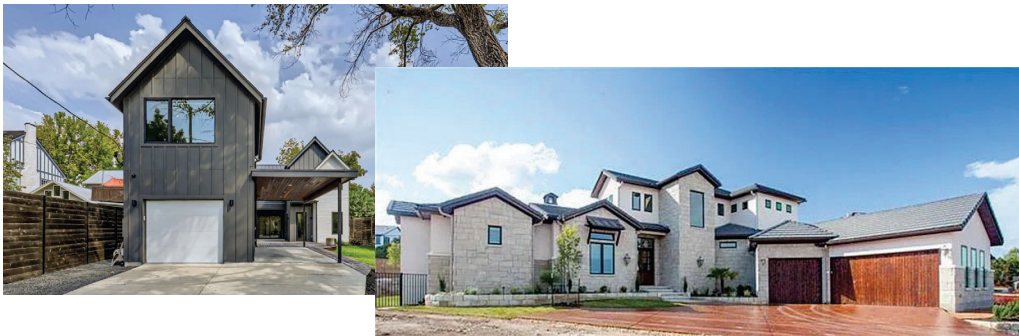
Pride of Austin High Yield Fund I, LLC								
Transactions by Account								
As of December 31, 2018								
Trans #	Type	Date	Num	Name	Memo	Split	Debit	
Accrued Income								
5670	General Journal	12/31/2015	716	The Falls - Roseville	The Falls (Roseville and Cedar Park)	-SPLIT-	523,766.82	
7754	General Journal	12/31/2016	716	The Falls - Roseville	The Falls (Roseville and Cedar Park)	-SPLIT-	1,049,578.51	
7807	General Journal	12/31/2017	716	The Falls - Roseville	The Falls (Roseville and Cedar Park)	40000 - Loan Interest	4,497,056.48	
Total Accrued Income							6,070,401.81	

Fraudulent Accounting

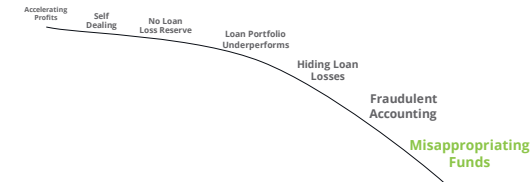


Misappropriating Funds

1610 Hether & 105 Pine Barrens



- CCGD borrowed over \$1.7 million from the Fund to build personal residences for Buchanan from 2012-2014 and 2018-2020.
- **105 Pine Barrens:** Transferred \$463K balance (which included some accrued PIK interest) to two foreclosed loans in July 2015 to remove this loan from the Fund's balance sheet
- **1610 Hether:** Borrowed over \$1.2 million between April 2018 and May 2020 to complete construction. Receiver evicted Buchanan from the residence in 2024 and sold the property, paying years of unpaid property taxes at closing.

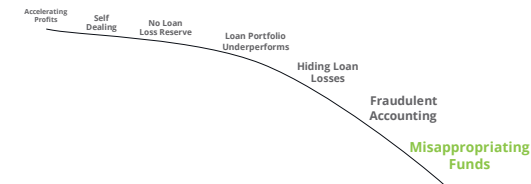


1307 Justin: Paying off Junior Liens

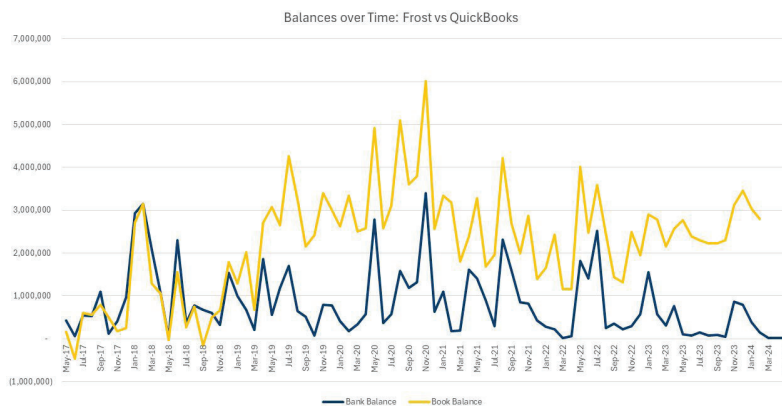
N. Due from Seller at Closing	\$842,281.72
01 Excess Deposit	
02 Closing Costs Paid at Closing (J)	\$85,772.79
03 Existing Loan(s) Assumed or Taken Subject to	
04 Payoff of First Mortgage Loan to Pride of Austin H..	\$127,902.44
05 Payoff of Second Mortgage Loan to US Treasury	\$22,601.06
06 Payoff to US Treasury	\$52,813.70
07 Payoff to US Treasury	\$42,415.06
Ad See Addendum for Additional Mortgage Payoffs	\$507,211.67
08 Seller Credit	

- Loan to CCGD originally funded in March 2021, increasing to \$1,250,000 by September 2023
- Closing statement for sale of Unit A reflects a payoff amount to the Fund of ~\$128K and more than \$600K paid to the US Treasury for tax liens filed against the CCGD.
- As a result, Fund never collected approx. \$370K from CCGD for this loan.
- Tax liens were junior to the Fund's first lien mortgage and should not have been paid until the Fund was repaid in full.
- 525 E. Live Oak also had this issue.

Misappropriating Funds



\$3.0M of Unbooked Transfers to CCG



- From November 2018 to September 2022, there were 55 transfers to CCGD, totaling over \$3.1 million, that were not booked in the accounting system.

2209 Iva Lane

CALCULATION	
Total Due to Seller at Closing (M)	\$585,000.00
Total Due from Seller at Closing (N)	-\$44,798.37
Cash to Close <input type="checkbox"/> From <input checked="" type="checkbox"/> To Seller	\$540,201.63

2. No loans or liens (including Federal or State Liens and Judgment Liens) taxes, or assessments of any kind on such property except the following: (Creditor)

None

- Between August 2015 and December 2016, CCGD borrowed approximately \$962K for acquisition and development of 2209 Iva Lane.
- \$105K of PIK Interest was recognized (but not collected) and \$175K was transferred from the balance of another loan to CCGD.
- Closing statements for the sales of the redeveloped lot reflect no loans or liens.
- Over \$1.2 million were never paid to the Fund on behalf of the loan, instead diverted to CCGD or Buchanan.



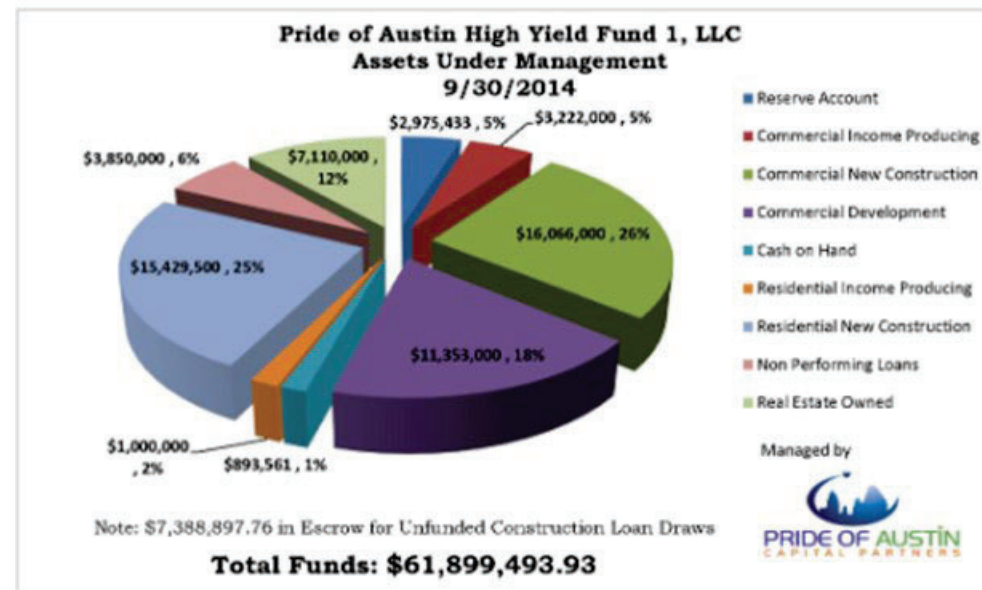
III. Other Badges of Fraud



HARNEY
PARTNERS

Misleading Information

- Of the limited information reported to current and prospective Members, the adjacent pie chart misrepresents the commonly used industry metric: **Assets Under Management**
- The industry definition of Assets Under Management is the market value of the assets an investment fund manages on behalf of its investors.
- The metric reported by the Fund was the aggregate appraised value of the collateral underlying its outstanding loans.
- Higher Assets Under Management metrics broadcast investor confidence and trust, scale of operations, and success in its investment strategy.
- Furthermore, no evidence was found to validate the amounts or existence of (a) the Reserve Account and (b) the Escrow for Unfunded Construction Loan Draws



Two Sets of Books

- Two loan schedules were maintained: one that was circulated to investors, one for only circulated internally.
- The loan schedule shared with investors omitted the (unsecured) loans to insiders previously discussed.

Message

From: Robert J Buchanan [rjb@prideofaustin.com]
Sent: 3/1/2012 9:48:26 AM
To: Owen, David (dfo@prideofaustin.com) [dfo@prideofaustin.com]
Subject: Loan Schedule Update
Attachments: POAHYF Loan Schedule.xls

Borrower	Amount	Unfunded	Close Date	Maturity
Adame	\$ 28,544.00	\$ -	8/31/10	8/31/12
GilberSharpe--1700 Clifford	\$ 230,000.00	\$ 9,941.70	5/16/11	6/1/12
Midtown--7400 Cameron Rd	\$ 1,236,956.52	\$ 173,814.70	9/12/11	10/1/12
Quesnay--Lots 1-6 Colorado St	\$ 129,000.00	\$ -	3/31/11	4/1/12
Quesnay--1505-1507 Colorado St	\$ 325,000.00	\$ 39,894.71	3/31/11	4/1/12
Zoeller--6709 Tulsa Cove	\$ 55,593.64	\$ -	12/14/10	1/1/12
Cattell Inc--215 Yupon	\$ 80,000.00	\$ 6,025.00	9/1/11	9/1/12
POAH--1308 Walnut	\$ 300,000.00	\$ 24,541.99	9/15/11	9/15/12
POAH--1306 Walnut	\$ 275,000.00	\$ 177,425.12	12/29/12	1/1/13
FP1--8045 FM 359	\$ 1,725,000.00	\$ 1,105,872.00	9/27/11	4/1/13
FP2--8043 FM 359	\$ 1,725,000.00	\$ 1,106,251.41	12/20/11	7/1/13
POAH--525 Live Oak	\$ 32,000.00	\$ -		
611 Bissonet	\$ 5,500.00	\$ -		
105 Pine Barrens	\$ 77,252.00	\$ -		
Bruner--73 Dogwood Terrace	\$ 35,000.00	\$ 11,901.52		
Total	\$ 6,259,846.16			

Funded	\$ 3,604,178.01
Unfunded	\$ 2,655,668.15

Message

From: Robert J Buchanan [rjb@prideofaustin.com]
Sent: 2/2/2012 3:51:06 PM
To: David F. Owen [/o=OEXCH080/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f6a82309cc45599634cc6e8f22b1e5-dfo@PrideofAust]
Subject: RE:
Attachments: POAHYF Loan Schedule - Investors.xls

Address	Loan Type	Amount	Close Date	Maturity
Adame / Del Valle, TX	SFR - Foreclosure Rescue	\$ 28,544.00	8/31/10	8/31/12
GilberSharpe--1700 Clifford / Austin, TX	SFR - New Construction	\$ 230,000.00	5/16/11	6/1/12
Midtown--7400 Cameron Rd / Austin, TX	Retail Center Rehab	\$ 1,236,956.52	9/12/11	10/1/12
Quesnay--Lots 1-6 Colorado St / Houston, TX	Lot Loan for Future Devel	\$ 129,000.00	3/31/11	4/1/12
Quesnay--1505-1507 Colorado St / Houston, TX	Town Home New Construction	\$ 325,000.00	3/31/11	4/1/12
Zoeller--6709 Tulsa Cove / Austin, TX	SFR Rehab	\$ 55,593.64	4/1/11	3/31/12
Cattell Inc--215 Yupon / Vidor, TX	SFR Rehab	\$ 80,000.00	9/1/11	9/1/12
POAH--1308 Walnut / Austin, TX	SFR New Construction	\$ 250,000.00	9/15/11	9/15/12
POAH--1306 Walnut / Austin, TX	SFR New Construction	\$ 275,000.00	12/29/12	1/1/13
FP1--8045 FM 359 / Fulshear, TX	Medical Office New Construction	\$ 1,725,000.00	9/27/11	4/1/13
FP2--8043 FM 359 / Fulshear, TX	Medical Office New Construction	\$ 1,725,000.00	12/20/11	7/1/13
Bruner -- 73 Dogwood Terrace / Ellerslie, GA	SFR Rehab	\$ 35,000.00	2/1/12	1/31/13
Total		\$ 6,095,094.16		

NOTES:

All Notes at 14%
 All Loans Current and Performing
 Total Portfolio LTV Less than 55%

Failure to File Tax Returns

- POA did not file a tax return (form 1065) for tax years 2016-2023
- Despite not filing a return with the IRS, the Fund issued Schedule K-1 to Members that included grossly overstated income.

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax year beginning JAN 01, 2015 ending DEC 31, 2015

2015

Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Part I Information About the Partnership	
A	Partnership's employer identification number 26-3920495
B	Partnership's name, address, city, state, and ZIP code PRIDE OF AUSTIN HIGH YIELD FUND 1 3600 N CAPITAL OF TX BLDG B STE 120 AUSTIN TX 78746-
C	IRS Center where partnership filed return Ogden
D	<input type="checkbox"/> Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner	
---------------------------------------	--

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2017, or tax year beginning 01 / 01 / 2017 ending 12 / 31 / 2017

2017

Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Part I Information About the Partnership	
A	Partnership's employer identification number 26-3920495
B	Partnership's name, address, city, state, and ZIP code Pride of Austin High Yield Fund I LLC 3600 N Capital of TX HWY BLDG B 120 Austin TX 78746
C	IRS Center where partnership filed return e-file
D	<input type="checkbox"/> Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner	
---------------------------------------	--

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2021, or tax year beginning 01 / 01 / 2021 ending 12 / 31 / 2021

2021

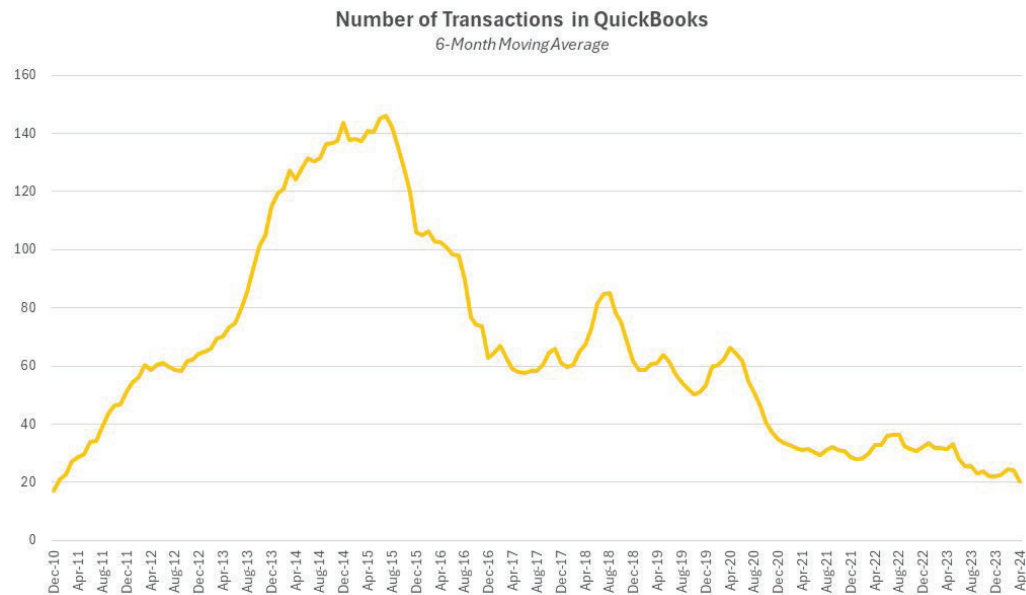
Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions

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C	IRS center where partnership filed return ▶
D	<input type="checkbox"/> Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner	
---------------------------------------	--

Decline in Accounting Activity

- Starting in 2015, there was a material decline in accounting activity of the Fund despite stable distributions being paid to Members. This is further evidence of a decline in the operations of the business, which is incompatible with the consistent returns and distributions paid.



Self Dealing

- The business conduct of the Fund, its Manager, and other affiliates was rife with self-dealing and conflicts of interest. While transactions were permitted between related parties, these transactions with related parties were certainly on more favorable terms than third party transactions, as required by the Fund's Operating Agreement

Excerpt from LLCOA:

(d) Self-Dealing. In addition to the transactions expressly permitted by this Agreement, the Manager may enter into business transactions with the LLC if the terms of the transaction are no less favorable to the LLC than those of a similar transaction with an independent third party, including selling loans to, and buying loans from, the LLC.

**Diverted Funds to
Affiliates or Self**

**Debt Service via
PIK Interest**

**Limited to No
Documentation**

**Lower Interest
Rates & Fees**

Self Dealing: Interest & Fees

Millions of dollars of interest were not collected from CCG Development

- One example is below from the payoff of 1207 Cullen where CCGD paid \$9K of interest based on the below payoff letter when \$249K had been incurred over the two years that the loan was outstanding.

BORROWER: CCG Development, LLC ADDRESS: 1207 Cullen Ave Austin, Texas 78757		PRIDE OF AUSTIN HIGH YIELD FUND I, LLC	
Loan Amount		\$	1,440,000.00
Loan Interest		\$	9,113.42
Wire Fee		\$	-
Legal Fee		\$	-
Loan Balance		\$	1,440,000.00
Total	Payoff as of December 21, 2023	\$	1,449,113.42
Per Diem	\$	433.97	
<i>Robert Buchanan</i>			
Robert Buchanan CCG Capital Group, LLC			

Project	1207 Cullen Ave		
Paid Off	12/19/2023		
	Amount	Date	Interest
Initial Funding	600,000.00	10/1/2021	146,284.93
Draw 1	50,000.00	10/1/2021	12,190.41
Draw 2	25,000.00	11/24/2021	5,688.36
Draw 3	25,000.00	1/4/2022	5,379.45
Draw 4	25,000.00	2/14/2022	5,070.55
Draw 5	50,000.00	5/2/2022	8,980.82
Draw 6	100,000.00	7/10/2022	15,882.19
Draw 7	50,000.00	9/16/2022	6,916.44
Draw 8	50,000.00	9/28/2022	6,735.62
Draw 9	50,000.00	11/14/2022	6,027.40
Draw 10	25,000.00	12/6/2022	2,847.95
Draw 11	50,000.00	1/4/2023	5,258.90
Draw 12	50,000.00	1/6/2023	5,228.77
Draw 13	50,000.00	1/20/2023	5,017.81
Draw 14	50,000.00	1/27/2023	4,912.33
Draw 15	25,000.00	3/30/2023	1,989.04
Draw 16	25,000.00	4/17/2023	1,853.42
Draw 17	25,000.00	5/4/2023	1,725.34
Draw 18	25,000.00	10/18/2023	467.12
Draw 19	25,000.00	10/30/2023	376.71
Draw 20	15,000.00	11/3/2023	207.95
Draw 21	25,000.00	12/15/2023	30.14
Draw 22	25,000.00	12/18/2023	7.53
TOTAL	1,440,000.00		249,079.18

Conflict of Interest



- Investment by the Fund in affiliated Pride of Austin Opportunity Fund increased the risk for the Fund, introduced material conflict of interest issues, and increased the potential for the Manager to double dip on management fees.
- No evidence that the Manager acted in the best interest of the Fund when managing outstanding loans to and defaults by CCGD

POA Opportunity Fund

- Second Liens permitted provided first lien is held by High Yield Fund
- Up to 5 year term with extensions possible on first liens held by POA Opportunity Fund



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Self Dealing

Affiliates run by Buchanan would be on all sides of the transactions, making it virtually impossible for Buchanan to serve the best interest of the Fund and its Members.

Alternative Investing – Why?

- Passive Income - Investor is not responsible for due diligence
- Mailbox Money → Direct Deposit Money
- Be the bank!
- Tangible asset – backed by REAL property



Lunch & Learn | March 2017
CCSGCAPITALGROUP.COM

From: Robert J Buchanan [<mailto:rjb@prideofaustin.com>]
Sent: Tuesday, February 25, 2014 1:48 PM
To: Bruce Hardesty
Cc: David Owen
Subject: FW: 509 Sacramento Dr., Austn, TX 78704

Bruce,

We have another loan set to close next Tuesday. The contract is attached. The borrower is:

Melody Drew Buchanan
105 Pine Barrens Ct
Austin Tx 78738

Pride of Austin Homes, LLC will be the builder.

The plan is to build a duplex on the lot after demolishing the original structure. The size of the duplex will be roughly 2,927SF or 1,464SF per side. The total loan amount will be \$700,000 with 3 Lender points, 11%, and 12 months.

Message

From: Robert J Buchanan [rjb@prideofaustin.com]
Sent: 2/25/2014 3:07:28 PM
To: David F. Owen [/o=OEXCH080/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e5f6a82309cc45599634cc6e8f22b1e5-dfo@PrideofAust]
Subject: RE: 509 Sacramento Dr., Austn, TX 78704

I don't think I sidestepped you. You were not available to discuss this deal the day a decision needed to be made. I was looking out for the best interest of the Fund and POAH. I needed to find a borrower that could make a quick decision. I found one and closed the deal. I am sure the Fund (investors) will enjoy making 14% on \$700k and lord knows POAH needs another project to keep it going.

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Questions

Submit questions on website



HARNEY
PARTNERS

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Ann Marie Jezisek on behalf of William Nix

Bar No. 24092902

ajejisek@krcl.com

Envelope ID: 101073171

Filing Code Description: Motion (No Fee)

Filing Description: RECEIVER'S MOTION TO APPROVE DISTRIBUTION PLAN

Status as of 5/21/2025 7:21 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Brian O'Toole		botoole@griffithdavison.com	5/20/2025 4:16:49 PM	SENT
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Kell CMercer		kell.mercer@mercero-law-pc.com	5/20/2025 4:16:49 PM	SENT
Ann Marie Jezisek		ajejisek@krcl.com	5/20/2025 4:16:49 PM	SENT

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Case Contacts

Ann Marie Jezisek		ajezisek@krcl.com	5/20/2025 4:16:49 PM	SENT
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